



W.P.No.18779 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2024

CORAM

**THE HONOURABLE MS.JUSTICE R.N.MANJULA**

**W.P.No.18779 of 2020 and**  
**W.M.P.Nos.23344 & 23345 of 2020**

B.Parthiban

... Petitioner

Vs.

- 1.Union of India,  
Rep by its Secretary,  
Ministry of Personnel, Public Grievances and  
Pensions, Department of Personnel & Training,  
North Block, New Delhi 110 001.
- 2.Union Territory of Puducherry,  
Rep by its Secretary (H &FW),  
Department of Health and Family Welfare,  
Chief Secretariat,  
Beach Road, Puducherry 605 001.
- 3.The Director,  
Directorate of Health and Family Welfare Services,  
Main Block of the Old Maternity Hospital Complex,  
Victor Simonel Street, Puducherry - 605 001.
- 4.Indira Gandhi Medical College and Research Institute  
Rep by its Director (FAC),  
I Floor, College Block, Vazhudavour Road,  
Kadirkamam,  
Puducherry 605 009.

... Respondents



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**Prayer :** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records from the 4th respondent and quash the order of the 2nd respondent bearing No.151-3/IGMC & RI/Estt./Contract/SN/2017 dated 16.07.2019 in so far as not extending the 4% reservation to the persons with disabilities in terms of Section 34(1) of the Rights of Persons with Disability Act, 2016, not extending relaxation of age in terms of Section 34(3) and not extending the relaxation of age in terms of Office Memorandum dated 29.06.2015 of the 1st respondent as illegal, arbitrary and contrary to law and consequently, direct the fourth respondent to extend the 4% reservation for physically challenged, extend the age relaxation to the persons with disabilities and thereafter proceed with the selection process to the post of Ward Attendant by considering the application of the petitioner.

For Petitioner : Ms.R.Kamatchi Sundaresan

For Respondents : Mr.V.Ashok Kumar, CGSC for R1  
Mr.M.Nirmal Kumar,  
GA (Puducherry) for R2 to R4

### **ORDER**

This Writ Petition has been filed for the issuance of a Writ of Certiorarified Mandamus, to call for the records from the 4th respondent and quash the order of the 2nd respondent bearing No.151-3/IGMC & RI/Estt./Contract/SN/2017 dated 16.07.2019 in so far as not extending



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the 4% reservation to the persons with disabilities in terms of Section 34(1) of the Rights of Persons with Disability Act, 2016, not extending relaxation of age in terms of Section 34(3) and not extending the relaxation of age in terms of Office Memorandum dated 29.06.2015 of the 1st respondent as illegal, arbitrary and contrary to law and consequently, direct the fourth respondent to extend the 4% reservation for physically challenged, extend the age relaxation to the persons with disabilities and thereafter proceed with the selection process to the post of Ward Attendant by considering the application of the petitioner.

2. Heard Ms.R.Kamatchi Sundaresan, learned counsel for the petitioner, Mr.V.Ashok Kumar, learned Central Government Standing Counsel for the first respondent and Mr.M.Nirmal Kumar, learned Government Advocate for the respondents 2 to 4.

3. The second respondent issued a notification on 16.07.2019 for engaging the Nurse and Ward Attendant in the fourth respondent Institute on contract basis. The petitioner who is a physically challenged person has applied for the post of Ward Attendant. But his application was



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rejected by stating that he was over-aged.

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4. The learned counsel for the petitioner submitted that as per the Official Memorandum of the Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training dated 29.06.2015, there could be an age relaxation for ten years in case of persons suffering with physical disability. The relevant portion of the above Official Memorandum is extracted as under:

*"(i) Age relaxation of 10 years (15 years for SC/ST and 13 years for OBC candidates) in upper age limit shall be allowed to persons suffering from (a) blindness or low vision (b) hearing impairment and (c) locomotor disability or cerebral palsy in case of direct recruitment to all civil posts / services under the Central Government identified suitable to be held by persons with such disabilities, subject to the condition that maximum age of the applicant on the crucial date shall not exceed 56 years."*

5. The petitioner has got 50% locomotor disability in view of the



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total hip replacement for which he was given with disability certificate.

The petitioner claims relaxation of age only basing on the Official Memorandum dated 29.06.2015.

6. Before claiming age relaxation as per the Official Memorandum, the petitioner has to show whether the post of Ward Attendant is identified as a post suitable to be held by persons with locomotive disability.

7. The learned Central Government Standing Counsel for the first respondent submitted that Indira Gandhi Medical College and Research Institute is functioning under Perunthalaivar Kamaraj Medical College Society, Puducherry and hence the Central Government Regulations will not be applicable to the petitioner.

8. The petitioner who had applied for the post of Ward Attendant cannot be identified as a fit person for the said post in view of the locomotor disability. It could be obviously for the reason that the Ward Attendant has to be mobile all the time, in view of the nature of his job. Apart from the technical aspect of applicability of the Central



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Government Rules to the fourth respondent, the nature of job itself would speak that the job cannot be identified to be suitable to the person with locomotor disability. Hence I feel this petition is liable to be dismissed.

9. In view of the above stated reasons, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

**12.02.2024**

Index : Yes /No  
Internet : Yes/No  
Speaking / Non-speaking  
Neutral Citation : Yes / No  
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To

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**R.N.MANJULA, J.**

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