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W.A.No.2856 of 2023 & W.P.Nos.9314 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2024

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.A.No.2856 of 2023, W.P.Nos.9314, 5927, 5935, 8163, 4401, 4600, 4658, 4881, 4666, 5447, 5651, 5900, 5926, 5937, 5953, 6199, 7167, 7174, 10338 of 2024 and W.P.(MD) Nos.4088 & 4231 of 2024 and C.M.P.Nos.23730, 23863 of 2023, 1579 of 2024, W.M.P.Nos.11342, 5099, 10332, 8017, 8018, 8023, 8025, 9110, 9111, 9112, 5036, 5038, 5089, 4741, 4742, 5090, 5101, 5341, 5342, 6015, 6251, 6529, 6530, 6574, 6576, 6585, 6589, 6605, 6606, 6870, 10335, 11343, 6017 and 6021 of 2024 and W.M.P.(MD) Nos.3956 and 4082 of 2024

W.A.No.2856 of 2023

1. The Principal Secretary to Government,
Health and Family Welfare Department,
Fort St.George, Chennai-600 009.
2. The Director,
Medical and Rural Health Services,
DMS Building, Annasalai,
Teynampet, Chennai-600 006.

... Appellants/R1 & R2

-VS-

1. P.Jebasahila
 2. S.Asha
 3. T.Jone Priya
 4. N.Praveena
 5. P.Mahalakshmi
- Petitioners

... Respondents 1 to 5/Writ



6. The Chairman,
Medical Services Recruitment Board (MRB),
7th Floor, DMS Building,
Annasalai, Teynampet,
Chennai-06.

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 12.07.2023 made in W.P.No.2424 of 2023 and allow this Writ Appeal.

For Appellants : Mr.J.Ravindran
Addl. Advocate General
Assisted by Mrs.M.Sneha, Spl. Counsel
For R1 : Mr.S.Sivakumar
For R6 : Mr.L.Murugavelu

W.P.No.9314 of 2024

1. V.Dharani
2. A.Ranjani
3. R.Revathi
4. J.Gowsalya
5. M.Anusuya
6. T.Saranya Kanimozhi

... Petitioners

-VS-

1. The Principal Secretary to Government,
Health and Family Welfare Department,
Fort St.George, Chennai-600 009.
2. The Director,
Medical and Rural Health Services,
DMS Building, Annasalai,
Teynampet, Chennai-600 006.
3. The Chairman,
Medical Services Recruitment Board (MRB),
7th Floor, DMS Building,
Annasalai, Teynampet,



Chennai-600 606.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records in connection with the impugned order passed by the 1st respondent in G.O.(D) No.1412, Health and Family Welfare (AA1) Department dated 30.12.2022 and quash the same and further direct the respondents to reinstate the petitioners as Nurse and to regularise them within a reasonable time with all attendant benefits.

Sl.No.	W.P. Number	For Petitioners	For Respondents
1.	9314/2024	Mr.K.Kathiresan	Mr.J.Ravindran, AAG Assisted by Mrs.M.Sneha, Spl. Counsel for R1 & R2 Mr.L.Murugavelu for R3
2.	4881/2024	Mrs.Dhakshyani Reddy, Senior Counsel For Ms.S.Suneetha	Mr.J.Ravindran, AAG Assisted by Mrs.M.Sneha, Spl. Counsel for R1 & R3 to R5 Mr.L.Murugavelu for R2
3.	4658/2024		
4.	4666/2024		
5.	4600/2024		
6.	4401/2024		
7.	4088/2024 (MD)	Mr.B.Muneeswaran	Mr.J.Ravindran, AAG Assisted by Mrs.M.Sneha, Spl. Counsel for R1 & R3 Mr.L.Murugavelu for R2
8.	4231/2024 (MD)		
9.	10338/2024	Mr.K.Kathiresan	Mr.J.Ravindran, AAG Assisted by Mrs.M.Sneha, Spl. Counsel for R1 & R2 Mr.L.Murugavelu for R3
10.	8163/2024	Mr.K.Srinivasa Murthy	Mr.J.Ravindran, AAG Assisted by Mrs.M.Sneha, Spl. Counsel for R1, R2, R4 & R5 Mr.L.Murugavelu for R3
11.	6199/2024	Mr.S.Sivakumar	Mr.J.Ravindran, AAG Assisted by Mrs.M.Sneha, Spl. Counsel for R1 to R3 Mr.L.Murugavelu for R4



W.A.No.2856 of 2023 & W.P.Nos.9314 of 2014

Sl.No.	W.P. Number	For Petitioners	For Respondents
12.	7167/2024	Mr.J.Saravanan	Mr.J.Ravindran, AAG Assisted by Mrs.M.Sneha, Spl. Counsel for R1 to R3 Mr.L.Murugavelu for R4
13.	7174/2024		
14.	5953/2024		
15.	5937/2024	Mrs.Dhakshyani Reddy, Senior Counsel For Ms.S.Suneetha	Mr.J.Ravindran, AAG Assisted by Mrs.M.Sneha, Spl. Counsel for R1, R3, R4 & R5 Mr.L.Murugavelu for R2
16.	5935/2024		
17.	5927/2024		
18.	5926/2024		
19.	5447/2024	Mr.K.Srinivasa Murthy	Mr.J.Ravindran, AAG Assisted by Mrs.M.Sneha, Spl. Counsel for R1, R2, R4 & R5 Mr.L.Murugavelu for R3
20.	5651/2024	Mr.B.Manoharan	Mr.J.Ravindran, AAG Assisted by Mrs.M.Sneha, Spl. Counsel for R1 & R2
21.	5900/2024	Mr.J.Saravanan	Mr.J.Ravindran, AAG Assisted by Mrs.M.Sneha, Spl. Counsel for R1 to R3 Mr.L.Murugavelu for R4

COMMON JUDGMENT

(By D.Krishnakumar,J.)

The issue involved in all these cases is one and the same and therefore, they are taken up together for final disposal.

2. The cases on hand revolve around absorption of Writ Petitioners to the post of Nurses in Government Hospitals / Health Care Institutions, whose services were directed to be discontinued by the Government. In a batch of Writ Petitions, learned



Single Judge, while quashing the resultant impugned orders to be unjustifiable, directed the Government for issuance of posting orders within six weeks, subject to certificate verification, if required. Against the said order, the Government filed W.A.No.2856 of 2023 against one W.P.No.2424 of 2023. The rest of the Writ Petitions have been filed by the aggrieved Nurses, who were recruited during Covid-19 pandemic, with a promise that they would be considered for regularization as and when vacancies arise. Since the Government deviated from its promise, they have knocked at the doors of this Court for redressal, stating that they worked during pandemic period, which had resulted in some of the Writ Petitioners losing their family members and colleagues. It is the grievance of the petitioners that though they had taken utmost risk at that time, endangering their lives for the welfare of Covid affected people, the Government has not shown any mercy on them and is keen in discontinuing their services.

3. When these matters were taken up for hearing on the last occasion, an undated affidavit (purported to be prepared in the month of January, 2024) duly affirmed by the Additional Secretary to Government, Health and Family Welfare Department, Secretariat, Chennai has been filed before this Court, wherein in Paragraph Nos.5 to 7, it has been stated as follows:

“5. It is humbly submitted that out of 8136 candidates sponsored by MRB for appointment as adhoc Nurses during the Pandemic, 3780 Nurses



initially joined, 3485 Nursing personnel worked more than one year and 3184 Nurses were terminated with 818 terminations (Merit followed but Communal Roster not followed) on 31.3.2022 vide Government letter No.11358/AA1/2022-1, Dated:29.03.2022 and 2366 terminations (Merit and Communal Roster followed) on 31.12.2022 vide G.O.(D) No.1412 Health and Family Welfare (AA1) Department, dated: 30.12.2022. The High Court has quashed the G.O.(D) No.1412, Health and Family Welfare (AA1) Department dated: 30.12.2022 in which the services of 2366 adhoc contractual Nurses was not extended.

6. It is humbly submitted that further, the High Court of Madras in its order dated 16.11.2023 in the writ petitions (W.P.Nos.25827, 25785 and 27568 of 2023) filed by Dr.Hariharan and others before the High Court of Madras, has upheld giving special consideration to staff who worked during COVID.

7. It is submitted that in as much as G.O.D.No.1412, Health and Family Welfare (AA1) Department dated 30.12.2022 has been quashed by this Hon'ble Court as prayed for in the Writ Petitions, all the 2366 adhoc numbers whose services were not extended beyond 31.12.2022 in the said Government Order, including the respondents/respondents herein, stand on an equal footing for absorption into contractual posts of Nurses and considering the respondents/respondents alone for such absorption may again be discrimination and give way to litigation by adhoc Nures, other than the respondents/respondents, who are among the above mentioned 2366 candidates. After detailed discussion, it is contemplated to examine the absorption of these Nurses, who were engaged on adhoc basis based on Merit and Communal Roster, into contractual basis Nurses posts in a phased manner. It is humbly submitted that in the light of the aforesaid position, the issue was re-examined and it has been proposed that all the 2366 adhoc based Nurses who were terminated vide G.O.(D) No.1412, Health and Family Welfare (AA1) Department, dated:30.12.2022, which is the Government order quashed by the High Court, be considered for recruitment to the vacancies immediately as follows:

i. They may be considered for absorption into contractual posts as per Merit seniority and roster wise;



ii. If the Staff Nurse has been recruited under District Health Society, she can be considered under MRB contract basis Nurse Category as and when she reaches her turn based on merit seniority & Communal Roster and that number be reduced from DHS wing;

iii. If the Staff Nurse is outside the system, she will be considered as MRB contract basis directly;

iv. At present, we will fill only such vacancies that are vacant. As and when future vacancies arise, we will fill up from the list of 2366 candidates till it is exhausted;

v. Thereafter, future vacancies on contractual basis Staff Nurses be filled up by District Health Society as per the orders issued in G.O.(Ms) No.17, H&FW (EAP II-2) Department, dated 10.1.2023 only (This special arrangement is only there to adhere to the court order and also give credit to the Nurse who worked during COVID post which is also as per Supreme Court guidelines).”

4. Today, this Court specifically posed a question to the learned Additional Advocate General with regard to 818 Nurses, who had been appointed on contractual basis and ousted from service without following communal roster. In reply, learned Additional Advocate General has stated that all the 818 Nurses would be considered for the future vacancies as per roster and that apart, the Government is also going to accommodate other 1389 Nurses against vacancies, which may arise in future. An assurance has been given before this Court that the Government will not deviate from its commitment and ensure that Nurses, who had struggled during Covid will not be let down.



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5. Recording the said affidavit filed by the Additional Secretary to Government, Health and Family Welfare Department, Secretariat, Chennai as well as the assurance and undertaking given by the learned Additional Advocate General, *the Writ Appeal and other Writ Petitions are disposed of*. It is open to the Writ Petitioners/Nurses to give representations to the concerned Authority, seeking to permit them to continue their services on contractual basis. Learned Additional Advocate General undertakes that if any such application is made, the same will be considered and decision will be taken thereon as per Rules in existence. No costs. Consequently, connected Miscellaneous Petitions are closed.

[D.K.K., J.,]

[K.B., J]

12.07.2024

Index: Yes / No

Internet: Yes / No

Speaking Order/Non Speaking Order

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To:

1. The Principal Secretary to Government,
Health and Family Welfare Department,
Fort St.George, Chennai-600 009.
2. The Director,
Medical and Rural Health Services,
DMS Building, Annasalai,
Teynampet, Chennai-600 006.



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AND
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