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W.P.No.33670 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2024

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.33670 of 2024 &

W.M.P.No.36451 of 2024

O.Rajamma

... Petitioner

Versus

1. The State of Tamilnadu
Rep. By the Additional Chief Secretary,
Health & Family Welfare Department,
Secretariat, Fort St. George,
Chennai – 600 009

2. The Director of Public Health &
Preventive Medicine,
DMS Campus
Chennai – 600 006

3. The Block Medical Officer,
Block Primary Health Centre,
Karipatti, Salem District – 636 106

4. The Medical officer,
Government Primary Health Centre,
Aachankuttapatti,
Salem – 636 122

...Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus by calling for the records of the 3rd respondent herein culminating in his proceedings



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R.2713/E5/2023 dated 05.11.2024 and the consequential relieving order passed by the 4th respondent in Na.Ka.No.880/A1/2024 dated 05.11.2024 and to quash the same and consequently direct the respondent to grant one year time to the petitioner to pass Tamil language test.

For Petitioner : Mr.M.Santhanaraman

For Respondents : Mr.S.Bindran
Additional Government Pleader

ORDER

This petition is filed for issuance of a Writ of Certiorarified Mandamus by calling for the records of the 3rd respondent herein culminating in his proceedings R.2713/E5/2023 dated 05.11.2024 and the consequential relieving order passed by the 4th respondent in Na.Ka.No.880/A1/2024 dated 05.11.2024 and to quash the same and consequently direct the respondent to grant one year time to the petitioner to pass Tamil language test.

2. According to the petitioner, she was appointed to the post of Auxiliry Nurse Midwife temporarily under Section 17(1) of the Tamilnadu Government Servants (Conditions of service) Act, 2017 by order dated 04.12.2020 based on the seniority in the Employment Exchange and the



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petitioner has been working diligently for the past four years. Further, Tamilnadu Government Servants (Conditions of Service) Act mandates that candidates, who do not possess adequate qualification in Tamil may be appointed to a post with a condition that Tamil Language test has to be passed within 2 years of appointment, thereby the petitioner wrote the Tamil language test on 20.06.2024 and passed in written examination, however, could not clear the oral examination. Therefore, the petitioner sent a letter dated 08.10.2024 requesting for an additional time of 6 months for the petitioner to pass the above mandated test. Despite the same, the 4th respondent issued a termination letter in Na.Ka.No.880/A1/2024 dated 05.11.2024 without any notice. Challenging the same, the petitioner has come up with this petition.

3. On the other hand, the learned Additional Government Pleader appearing for the respondents submits that the appointee must pass the tamil language examination within two years from the date of joining. Till date, a period of four years has elapsed from the date of joining, yet the petitioner has not passed the second Tamil language examination. Further, as per the Tamilnadu Government Servants (Conditions of Service) Act, 2016, Rule 21 Sub Rule 2, termination order was issued



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and no representation has been given regarding the departmental exam and also not produced any document related to that, thereby pleaded to dismiss the petition.

4. Admittedly, the petitioner was appointed to the post of auxiliary Nurse Midwife temporarily on 04.12.2020 and continued for over four years. It is the contention of the petitioner that the petitioner had appeared for the Second Class Language Test in Tamil on 20.06.2024 and passed in the written examination and the petitioner was not successful in the viva voice. However, it is the contention made on behalf of the respondents that the same has not been intimated to them.

5. Considering the fact that the petitioner is hailing from a financially struggling family and born in Tamilnadu and that the petitioner had appeared for the Second Class Language Test in Tamil on 20.06.2024 and had successfully passed the written examination conducted, however, the petitioner was not successful in the viva voice conducted on 04.10.2024, in order to give an opportunity to the petitioner, this Court is inclined to direct the respondents to permit the petitioner to appear for the examination during May, 2025 and if the petitioner fails in



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the said examination, the petitioner shall take up the said examination during December, 2025 in order to clear the Second Class Language Test in Tamil. If the petitioner is not able to get pass percentage during the exams, appropriate orders shall be passed. Further, the respondents are directed to reinstate the petitioner into service and it is made clear that the petitioner is not entitled for back-wages from the date of termination to the date of reinstatement.

Accordingly, the Writ Petition is allowed. Consequently, connected miscellaneous petition is closed. No costs.

06.12.2024

Index : Yes/No
Internet: Yes / No
Speaking order : Yes/No
ssd
To

1. The State of Tamilnadu
Rep. By the Additional Chief Secretary,
Health & Family Welfare Department,
Secretariat, Fort St. George, Chennai – 600 009
2. The Director of Public Health & Preventive Medicine
DMS Campus, Chennai – 600 006
3. The Block Medical Officer,
Block Primary Health Centre,
Karipatti, Salem District – 636 106
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Aachankuttapatti,
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V.BHAVANI SUBBAROYAN, J.

ssd

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