



WP.(MD).No.3886 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 01.03.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.3886 of 2024
and
W.M.P.(MD)No.3765 of 2024

1.S.Tamil Selvi
2.M.Banumathi
3.K.G.Muthamil Selvi ... Petitioners

Vs.

1.The State of Tamil Nadu,
Rep. By its Principal Secretary to Government,
Health and Family Welfare Department,
Fort St. George,
Chennai – 9.

2.The Director of Medical and Rural Health Services,
DMS Campus,
Teynampet,
Chennai-18. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to appoint the petitioners as Staff Nurse in the existing vacancy in any of the Government Hospitals on par with the batch mates who got selected and appointed as Nurse by virtue of certificate verification held on 22.02.2011 and in pursuance of selection made by the 2nd respondent based on the Certificate



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Verification completed by virtue of call letter issued by the 2nd respondent by his proceedings Ref.No.11190/N1/2/2011 dated 18.02.2011 and by considering the petitioner representation dated 09.10.2023 and 13.02.2024.

For Petitioners : Mr.Ajmal Khan, Senior Counsel
For M/s.Ajmal Associates
For Respondents : Mr.M.Siddharthan
Additional Government Pleader

ORDER

This Writ Petition has been filed for issuance of a Writ of Mandamus, seeking to direct the respondents to appoint the petitioners as Staff Nurse in the existing vacancy in any of the Government Hospitals on par with the batch mates who got selected and appointed as Nurse by virtue of certificate verification held on 22.02.2011 and in pursuance of selection made by the 2nd respondent based on the Certificate Verification completed by virtue of call letter issued by the 2nd respondent by his proceedings Ref.No.11190/N1/2/2011 dated 18.02.2011 and by considering the petitioner representation dated 09.10.2023 and 13.02.2024.

2.The brief facts which are necessary for the disposal of this Writ Petition is as follows:-

The petitioners have completed Diploma in General Nursing



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and Midwifery/Psychiatry at School of Nursing, Coimbatore Medical College and Hospital, Coimbatore during January 2010 and have registered themselves duly in Nursing Council. The second respondent notified and called for recruitment of Staff Nurse in the Government General Hospitals and Primary Health Centres for a total number of 1741 vacancies during the year 2010. The mode of appointment on the basis of seniority registered before the Nursing Council and the candidates were finalized and as many as 969 candidates were called for certificate verification on 22.02.2011 and after certificate verification, they were issued with appointment orders. Thereafter, 772 selected candidates were called for certificate verification on 23.02.2011 and verification was duly completed. While so, Model Code of Conduct was implemented due to the commencement of the elections during that period and hence, the issuance of appointment orders to the second batch of selected 772 candidates were kept in abeyance. In the meanwhile, the petitioners have submitted their representation on several dates to the respondents seeking issuance of appointment orders and the last of which, was made 09.10.2023 and 13.02.2024 and the same was not considered. Hence, this Writ Petition came to be filed.



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WEB COPY 3.The learned counsel for the petitioners submitted that having issued appointment orders to the first batch of 969 candidates on 22.02.2011, the issuance of appointment orders to second batch of 772 candidates was kept in abeyance due to the commencement of the elections Code of Conduct and despite several representation made by the petitioners, the Government has not considered so far.

4.He also drew my attention to G.O.Ms.No.29, Health and Family Welfare Department dated 18.01.2012 wherein the Government has decided that in future all vacant posts in all Government medical institutions would be filled up among trained Nurses both in Government Institutions and Government approved Private Nursing Institutions by conducting an examination through Medical Services Recruitment Board (MSRB) constituted by G.O.Ms.No.1, Health and Family Welfare Department dated 02.01.2012 purely following the Rules of reservation and orders. The said decision was taken pursuant to the order passed by the Hon'ble Division Bench of this Court in W.A.(MD)No.118 of 2011 and W.P.(MD)No.1194 of 2011, where a batch of candidates who



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pursued Nursing course in Private institutions sought their eligibility to contest and to take part in the selection process for the selection of Staff Nurse in Medical Institutions and the said Writ Petition was dismissed and the Writ Appeal was allowed. However, Review Application was filed by the Government as against the decision of Hon'ble Division Bench of this Court in W.A.(MD)No.118 of 2011. In Review Application in Rev.Apl.(MD)Nos.37, 79 and 31 of 2011, the Hon'ble Division Bench of this Court was pleased to reverse the order passed by this Court in W.A.(MD)No.118 of 2011 to the disadvantage of the candidates who pursued the Nursing course in the Government approved Private Institutions and against the same, the candidates who pursued Nursing course in Private Institutes preferred a SLP in Civil Appeal Nos.13700 to 13702 of 2015 before the Hon'ble Apex Court. However, in the meanwhile, since the Government has issued G.O.Ms.No.29, Health and Family Welfare Department dated 18.01.2012, Medical Service Recruitment Board was also constituted vide G.O.Ms.No.1 dated 02.01.2012 and the matter was put in abeyance by the petitioners before the Hon'ble Apex Court and thereafter, the same was also withdrawn on 10.08.2023. That apart the Additional Chief Secretary to Government vide letter dated 10.01.2024 issued



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further instructions in the matter pertaining to the representations submitted by the Tamil Nadu Government Training Nurses Association and Association of Government Trained and Trainee Nurses to appoint them in Government Medical institutions and a perusal of the aforesaid instructions would reveal that the issue pertaining to the issuance of appointment orders to 772 candidates whose certificate verification was completed on 23.02.2011 was still pending with the Government and on that basis, he pressed for allowing the Writ Petition.

5.The learned Additional Government Pleader for the respondents submitted that the petitioner's representation would be considered in accordance with law.

6.Heard the learned counsel appearing for the petitioners, the learned Additional Government Pleader appearing for the respondents and carefully perused the entire materials available on record.

7.Considering the facts and circumstances of this case and after careful perusal of the representations dated 09.10.2023 and



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13.02.2024 submitted by the petitioners, I am of the opinion that the entire arguments of the learned Senior Counsel for the petitioners as recorded by this Court has been incorporated in the said representations.

8.In view of the same, I direct the respondents to consider the petitioners' representations dated 09.10.2023 and 13.02.2024 and to pass appropriate orders in the light of G.O.Ms.No.29, Health and Family Welfare Department dated 18.01.2012 and the instructions issued by the Additional Chief Secretary to Government vide letter dated 10.01.2024 within a period of eight weeks from the date of receipt of copy of this order.

9.In view of the above, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

01.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn



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L.VICTORIA GOWRI, J.

Mrn

To

1.The Principal Secretary to Government,
State of Tamil Nadu,
Health and Family Welfare Department,
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Chennai – 9.

2.The Director of Medical and Rural Health Services,
DMS Campus,
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