



WP.(MD).No.4060 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 22.02.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.4060 of 2024

N.Varalakshmi

... Petitioner

Vs.

- 1.State of Tamil Nadu,
(Represented by its Additional Chief Secretary)
Health and Family Welfare Department,
Secretariat,
Chennai – 600 009.
- 2.The Director of Medical and Rural Health Services,
DMS Complex,
Anna Salai,
Chennai – 600 006.
- 3.The Joint Director of Health Service,
Thoothukudi,
Thoothukudi District.
- 4.The Hospital Superintendent,
District Headquarters Hospital,
Kovilpatti,
Thoothukudi District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondent nos.1 and 2 to step up the pay of the petitioner on par with the pay



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of the Junior with all consequential benefits by considering the proposal forwarded by the respondent no.3 vide Na.Ka.No. 4854/Ni2/2017 dated 11.08.2023.

For Petitioner : Mr.T.Ashwin Raja Simman
For Respondents : Mr.S.Shaji Bino
Special Government Pleader

ORDER

By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

2.This Writ Petition has been filed for issuance of a Writ of Mandamus, seeking to direct the respondents 1 and 2 to step up the pay of the petitioner on par with the pay of the Junior with all consequential benefits by considering the proposal forwarded by the respondent no.3 vide Na.Ka.No.4854/Ni2/2017 dated 11.08.2023.

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

(i)The petitioner was appointed in the post of Staff Nurse at Government Hospital, Asaripallam, Kanyakumari District on 16.04.1984. She was promoted to the post of Nursing Superintendent Grade II on 15.11.2013 and posted at Government



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Headquarters Hospital, Nagapattinam. On attaining the age of superannuation, the petitioner retired on 31.01.2018. One of her Junior Smt.R.Vijayalakshmi who was appointed as Staff Nurse on 29.01.1986, was promoted as Superintendent Grade II on 30.06.2016. As the result of which, pay anomaly had arisen and the said Junior was receiving higher pay than the senior. The petitioner had submitted representation on 18.08.2017 seeking rectification of pay anomaly. The application of the petitioner was forwarded to the third respondent by the Hospital Superintendent, Government Headquarters Hospital, Kovilpatti, Thoothukudi District vide proceedings dated 01.02.2019. Thereafter, the third respondent forwarded the proposal to the second respondent vide proceedings dated 18.03.2019. However, the second respondent did not pass any orders despite the petitioner sending several reminders and the last of which, was made on 29.01.2020.

(ii)Hence, the petitioner filed a Writ Petition in W.P.(MD)No. 6421 of 2022 and the same was disposed of by this Court by order dated 20.04.2022. Even after the said order, the respondents did not step up the petitioner's pay and granted the monetary benefits. Hence, a contempt petition was filed in Contempt Petition No.1218



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of 2022. Following which, a proposal was forwarded on 11.10.2022.

Subsequently, the third respondent has sent a letter dated 12.07.2023 stating that the Government has returned the pay proposal of the Junior directing to rectify the data variations in the proposal and service register. Following which, the fourth respondent submitted a rectified proposal dated 04.06.2023 to the third respondent for further action. The third respondent vide proceedings dated 11.08.2023 has forwarded the rectified proposal to the second respondent. However, the same was not considered even after a passage of eight months by the respondents 1 and 2. Hence, this Writ Petition came to be filed

4. Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the respondents and carefully perused the entire materials available on record.

5. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondent to consider the same on its own merits and pass appropriate orders in one way or other instead of keeping the same pending indefinitely. As such, non-consideration of the



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representation made by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking the extraordinary powers under Article 226 of the Constitution of India.

6.In view of the same, without going into merits of the case, this Court hereby direct the respondents 1 and 2 to consider the proposal forwarded by the third respondent vide proceedings dated 11.08.2023 within a period of 12 weeks from the date of receipt of copy of this order.

7.In view of the above, this Writ Petition stands disposed of. There shall be no order as to costs.

22.02.2024

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



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L.VICTORIA GOWRI, J.

Mrn

To

- 1.The Additional Chief Secretary,
State of Tamil Nadu,
Health and Family Welfare Department,
Secretariat,
Chennai – 600 009.
- 2.The Director of Medical and Rural Health Services,
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Anna Salai,
Chennai – 600 006.
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