



W.P(MD)No.7166 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.03.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P(MD)No.7166 of 2024

E.Irudhayajothi Amal

... Petitioner

Vs.

- 1.The Secretary to Government,
Public Health and Preventive Medicine Department,
Secretariat, Chennai.
- 2.Directorate of Public Health and
Preventive Medicine Department,
359, Anna Salai, DMS Complex,
Teynampet, Chennai.
- 3.The Deputy Director,
Public Health and Preventive Medicine Department,
Kadalaiyur Road, Kovilpatti,
Thoothukudi.
- 4.The Block Medical Officer,
Primary Health Center,
Perilovanpatti, Vilathikulam Taluk,
Thoothukudi District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 2nd respondent to fix the petitioner's salary on par with the petitioner's junior from 01.01.2021 and consequently to pay the arrears of pension amount with interest at the rate of 18% per annum by considering the petitioner's representation, dated 07.09.2022.

For Petitioner : Mr.I.Robert Chandrakumar

For Respondents : Mr.J.K.Jayaselan
Government Advocate

ORDER

The present writ petition has been filed seeking direction to the 2nd respondent to fix the petitioner's salary on par with the petitioner's junior from 01.01.2021 and consequently to pay the arrears of pension amount with interest at the rate of 18% per annum by considering the petitioner's representation, dated 07.09.2022.

2. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.



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3. The petitioner joined service as Multipurpose Health Worker in the Primary Health Centre, Pattamadai. She was later regularized in the said post and the salary was increased and pay was revised on the basis of pay commission scale. In the meanwhile, the Government reclassified the name of the post as Village Health Nurse. On 01.05.1989, the petitioner was transferred to the office of the 4th respondent and thereafter, she served therein till her retirement. On 12.06.2015, she was promoted as Sector Health Nurse and thereafter on 18.10.2021, she was promoted as Community Health Nurse. One S.Prema has joined on 09.02.1989 four years after the petitioner's appointment as Multipurpose Health Worker and she was also subsequently promoted as Village Health Nurse and she is working in Primary Health Centre, Kayamozhi as Sector Health Nurse under the Rashtriya Bal Swasthya Karyakram (RBSK) scheme. On 23.10.2020, she received a sum of Rs.64,100/-, which is higher than the pay of the petitioner i.e., Rs.59,200/-. The said Prema is junior to the petitioner in service and both have the same qualification. However, she has been sanctioned with higher salary than the petitioner. In the meanwhile, the petitioner retired from service on 31.05.2022. At the time of her retirement, her salary was Rs.63,600/-, but her junior Prema was receiving Rs.66,600/- which is Rs.2,600/- higher than the petitioner. Hence, on 07.09.2022, the petitioner made a detailed representation along with proposal for fixation of pay on par



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with her junior to the 4th respondent. The 4th respondent has forwarded the same for appropriate action to the 3rd respondent. Thereafter, the same was forwarded to the 2nd respondent. The 2nd respondent has returned the said proposal for certain queries and the same was rectified and further forwarded to the 4th respondent on 26.02.2024. Thereafter, the same has reached the 2nd respondent through proper channel and the same is pending before the 2nd respondent without disposal. In view of the same, this writ petition came to be filed.

4. 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 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.

5. Without going into merits of the case, this Court hereby direct the 2nd respondent to consider the petitioner's representation, dated 07.09.2022 and pass appropriate orders in accordance with law within a period of twelve (12) weeks from the date of receipt of copy of this order.



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6. With the above said observations, this Writ Petition stands disposed of. No costs.

22.03.2024

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

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L.VICTORIA GOWRI, J.

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