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W.P.(MD) No.2704 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.2704 of 2019

and

W.M.P.(MD) Nos.2058, 2059 of 2019 & 17131 of 2024

T.R.Valsakumari

... Petitioner

-vs-

1.The Principal Secretary
Health and Family Welfare Department
Government of Tamilnadu
Secretariat, Fort St.George
Chennai-600 009

2.The Director of Family Welfare
Directorate of Family Welfare
Anna Salai, Teynampet
Chennai-600 006

3.The Director of Public Health &
Preventive Medicine
O/o.The Director of Public Health &
Preventive Medicine
Teynampet, Chennai-600 006

4.The Deputy Director of Health Services
Nagercoil, Kanyakumari District

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records of the second respondent vide proceedings in Ref.No.206/FW/E3/2019 dated 11.01.2019 and quash the same and consequently direct the respondents to issue fresh proposal for preparation of panel for the post of District Extension Educator for the year 2018-2019 among the qualified Block Health Statisticians, Health Inspector Grade-I and Sector Health Nurse by following ratio and rules framed in G.O.Ms.No.570, Health and Family Welfare (R2) Department, dated 26.11.1996 and G.O.Ms.No.230, Health and Family Welfare (R2) Department, dated 13.08.2010, within a time frame to be fixed by this Court.

For Petitioner : Mr.R.Pon Karthikeyan

For Respondents : Mr.G.Suriya Ananth
Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned panel for promotion to the post of District Extension Educator for the year 2018-2019.



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2. According to the petitioner, since the post of Block Extension Educator was abolished through G.O.Ms.No.154, Health and Family Welfare (AC) Department, dated 11.03.2004, the petitioner, who is working as a Sector Health Nurse, which is the feeder category for the post of Block Extension Educator, ought to have been included in the impugned panel for promotion to the post of District Extension Educator, as assured by the second respondent through his communication dated 17.02.2012 sent to the petitioner.

3. A counter affidavit has been filed by the respondents 1 and 2 reiterating that there is no irregularity committed by the second respondent in the preparation of the impugned panel for promotion to the post of District Extension Educator for the year 2018-2019 as alleged by the petitioner. According to the respondents 1 & 2, only in accordance with G.O.(Ms).No.230, Health & Family Welfare (R2) Department, dated 13.08.2010, the impugned panel was prepared and as per the said Government Order, the post namely, Sector Health Nurse, which the petitioner holds, is not eligible to be included as a feeder category for promotion to the post of District Extension Educator.



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4. The relevant portion of G.O.(Ms).No.230, Health and Family Welfare (R2) Department, dated 13.08.2010, which prescribes qualification for being promoted to the post of District Extension Educator, namely, appointment, reads as follows:

“3.Appointment-

Appointment to the post shall be made as follows:

- (a) (i) by promotion from the category of Block Extension Educator; or*
- (ii) by recruitment by transfer from the category of Health Inspector Grade I; or*
- (iii) by direct recruitment, if no qualified candidate is available in any of the above methods.*
- (b) The ratio for appointment among the methods specified in items (i) and (ii) shall be 9:1.”*

5. Admittedly, the petitioner has not satisfied any of the aforementioned criteria for being promoted to the post of District Extension Educator. The petitioner has also not challenged the aforementioned Government Order, namely, G.O.(Ms).No.230, Health and Family Welfare (R2) Department, dated 13.08.2010, till date, if aggrieved by the non-inclusion of her post as a feeder category for being promoted to the post of District



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Extension Educator. The respondents 1 and 2 have also categorically contended that only in accordance with G.O.(Ms).No.230, Health and Family Welfare (R2) Department, dated 13.08.2010, the impugned promotion panel was prepared. In the communication, dated 17.02.2012, sent by the second respondent, he has only stated that as and when any vacancy arises, the petitioner's case will be considered. He has never stated that the petitioner is eligible to be promoted to the post of District Extension Educator. If the petitioner is aggrieved, she ought to have challenged the Government Order, namely, G.O.(Ms).No.230, Health and Family Welfare (R2) Department, dated 13.08.2010, which is the basis for preparation of the impugned promotion panel for the year 2018-2019 by the second respondent. Having not challenged the same by an appropriate legal proceeding, the question of granting any relief for the petitioner in this writ petition does not arise.

6. For the foregoing reasons, there is no merit in this writ petition, since the petitioner has not challenged the Government Order, namely, G.O. (Ms).No.230, Health and Family Welfare (R2) Department, dated 13.08.2010. Accordingly, this writ petition is dismissed. However, liberty is granted to the petitioner to challenge the Government Order, namely, G.O.(Ms).No.230,



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Health and Family Welfare (R2) Department, dated 13.08.2010, in the manner known to her under law, however, she will have to satisfy the Court with regard to delay and laches on her part while challenging the said Government Order. No costs. Consequently, connected miscellaneous petitions are closed.

14.10.2024

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

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To:

- 1.The Principal Secretary,
Health and Family Welfare Department,
Government of Tamilnadu,
Secretariat, Fort St.George,
Chennai-600 009.
- 2.The Director of Family Welfare,
Directorate of Family Welfare,
Anna Salai, Teynampet,
Chennai-600 006.
- 3.The Director of Public Health &
Preventive Medicine,
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Nagercoil, Kanyakumari District.



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ABDUL QUDDHOSE, J.

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