

Cont. P.No. 683 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON : 14.03.2025

PRONOUNCED ON : 22.04.2025

CORAM

**THE HON'BLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE Ms. JUSTICE P.T. ASHA**

Cont. P.No. 683 of 2019
and Sub.Appl.No.486 of 2019

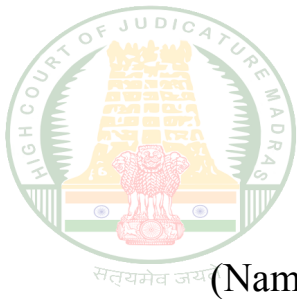
The Tamilnadu MRB Nurses
Empowerment Association
No.332, 10th Street, Thirumalai Nagar,
Chithalapakkam,
Chennai – 600 064.

...Petitioner

-VS-

Dr.P.Senthilkumar

... Respondent



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(Name of the respondent is substituted by order of this Court made in Cont.P.No.683 of 2019 dated 04.01.2023).

PRAYER: Contempt Petition is filed under Section 11 of the Contempt of Courts Act, to punish the respondent for disobedience of the orders of this Court dated 11.06.2018 made in WP.No.31213 of 2017.

For Petitioner : Mr. R.Natarajan

For Respondent : Mr. J.Ravindran
Additional Advocate General.
Assisted By
Mr. S.John J.Raja Singh
Additional Government Pleader

JUDGEMENT

*(Judgment of this Court was delivered by **P.T.ASHA, J.**)*

The above Contempt Petition is filed to punish the respondent for wilful disobedience of the orders of this Court dated 11.06.2018 made in W.P.No.31213 of 2017.

2. The genesis for this contempt arises out of the Writ Petition



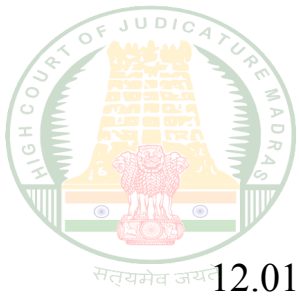
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referred above, which was filed in public interest to issue a mandamus

directing the 1st respondent therein namely, the Secretary to the Government, Health and Family Welfare Department to take action against respondents 2 and 3 therein, who are the MRB Nurses Welfare Association and the contract nurses employed in Government Hospitals in Tamil Nadu from resorting to any kind of agitations, strike and refusal to work or abstaining from discharging their duties and obligation of their employment.

3. The strike call had been given by the Association to press their demand for regularising the services of the contract Nurses. The Division Bench of this Court by order dated 29.11.2017 had granted interim order restraining the nurses from striking. Thereafter, on



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12.01.2018 after the Court was informed that a Core Committee had
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been formed to consider the question of parity and / or equivalence of nature of duties and responsibilities, qualifications, experience, working hours etc., the Court directed the Core Committee to submit their status report.

4. On 11.06.2018 this Court has passed further orders directing the Core Committee to give the Associations / concerned nurses an opportunity of hearing and decide on a case to case basis as to which of those nurses appointed on contract basis, hereinafter referred to as MRB nurses are performing the same duties as that of the regular nurses. The Court had also observed that in case they perform the same duty they are entitled to equal remuneration. The Core



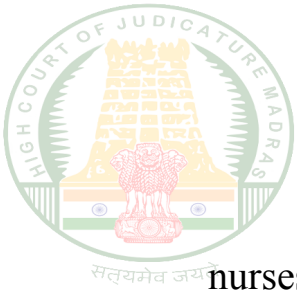
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Committee was granted 6 months time for carrying out the said exercise. Meanwhile, 204 contract nurses had been regularised by then.

5. Since the order of this Court was not given effect to by the 1st respondent therein, the Association has filed the above Contempt Petition. The respondent had assured the Court that they would comply with the orders of this Court and submit a compliance report and the respondents / contemnors were granted time.

6. In the affidavit dated 02.01.2023, the contemnor had submitted that by letter dated 01.12.2022, the Director of Medical and Rural Health Services who is the appointing authority for the post of MRB

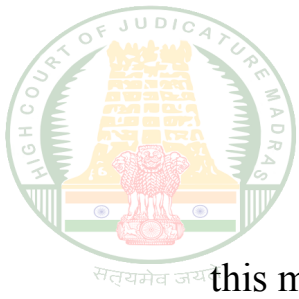


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nurses has been requested to call for the individual representations from each and everyone of the around 10000 MRB nurses regarding their duties along with necessary documents to show proof that they are discharging the same duties as that of regular nurses. These representations were to reach him on or before 04.12.2022 and on receipt of the representations the Director was required to examine them on a case to case basis.

7. On the basis of the above said directions the Director of the Medical and Rural Health Services has addressed the Joint Director of Health Services of all the districts to furnish these details. The respondent would further submit that a meeting had been convened by the respondent to examine the representations received by them and in



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this meeting the following persons had participated:

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“i. Director of Medical and Rural Health Services

ii. Director of Medical Education.

iii. Director of Public Health and Preventive Medicine

iv. Mission Director, National Health Mission

v. Project Director, Tamil Nadu Health System Project.

8. The affidavit further stated that the Director of Medical and Rural Health Services was instructed to obtain the applications of the remaining MRB nurses. In order to complete the exercise they had sought for further period of 6 months.

9. Thereafter, a compliance affidavit dated 05.06.2023 was filed

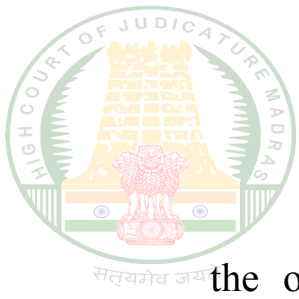


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into Court on 27.07.2023. On going through the compliance affidavit it
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was clear that the scrutiny had not been done in the way directed by this Court in its order dated 11.06.2018 in as much as it was the Mission Director who had scrutinised the representation of the nurses and forwarded the same to the Core Committee. The Core Committee has simply put its seal of approval to this report and rejected the request of the MRB Nurses.

10. The Core Committee had not independently considered the representations which is evident from the fact that they had overlooked the statement that in some of the Government Hospitals the MRB Nurses were engaged in and discharging the same services as that of the regular nurses. The respondent was therefore directed to produce



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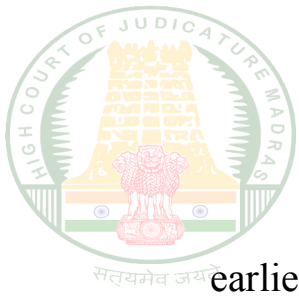
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the original of the MRB nurses scrutiny forms, which had been enclosed in typed set of papers filed by the petitioner on 23.08.2023.

The contemnor was also directed to appear before the Court either in person or through Video Conference.

11. When the contemnor had appeared through VC, this Court pointed out the discrepancies in the scrutiny made by the core committee as they had not followed the dicta laid down in the order. Therefore, this Court suggested the appointment of two retired Judges of this Court to scrutinise and compare the nature of work done by both the MRB Nurses as well as regular nurses. The respondent sought time to get instructions and the matter was adjourned to 29.08.2023.

12. On the said date, the respondent suo motu withdrew their



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earlier report and undertook to individually scrutinise the forms on a case to case basis on the lines of the directions issued by this Court in its order dated 11.06.2018. They had sought 12 weeks time to complete the exercise. This Court by its order dated 29.08.2023 was pleased to grant their request.

13. Thereafter, the respondent filed a compliance affidavit dated 07.12.2023 and once again from its scrutiny, it was clear that once again there was a non compliance of the order of the Court. Thereafter, this Court by order dated 18.12.2023 was pleased to appoint Mr.Justice V.Bharathidasan and Mr.Justice.V.Parthiban, retired Judges of this Court as a Scrutiny Committee to verify as to whether the MRB nurses and the regular nurses discharge the same duties.

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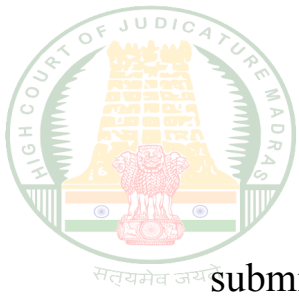


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14. The Scrutiny Committee was directed to conduct verification of the representation of the MRB nurses at the Headquarters of each District. During this verification all the registers relating to the work done by the individual nurses were directed to be presented before the Scrutiny Committee. The Officers of the Health Department in each District were directed to collate the application forms and documents submitted by individual nurses and the assessment forms and submit the same to the committee before the end of January 2024. Apart from the officials, the District representatives of petitioner Association were also directed to be present to assist the Scrutiny Committee. The Scrutiny Committee was directed to file their report by 08.03.2024. The Scrutiny Committee after seeking extension from this Court have

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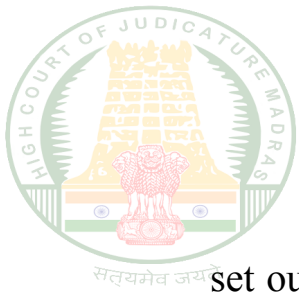
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submitted their report dated 02.09.2024 into this Court.

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15. A mere perusal of the report would clearly show the meticulous manner in which the Scrutiny Committee has proceeded with the work entrusted to them. They have discussed the genesis of the case, scope / ambit of the assignment, scrutiny of the forms, nature of the questionnaire that has been given out to the MRB Nurses and ultimately given the results of their scrutiny. A mere reading of this report would give the entire trajectory of the case.

16. From a perusal of the report it appears that the questionnaire that had been circulated amongst the MRB Nurses was itself flawed. The Scrutiny Committee would state that the questions that had been



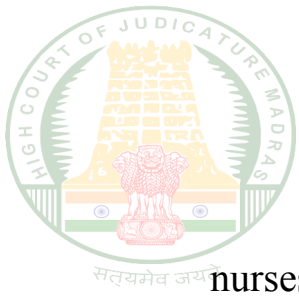
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set out in these questionnaires were tailor made to suit the respondents

as it did not give room for the MRB Nurses to put forward their individual cases. They could answer the questions only in the affirmative or in the negative. In majority of the cases, the forms were filled up by the staffs employed therein and not by the MRB nurses. In some Districts the MRB Nurses were not even aware about such forms. Endorsement / certification by officials have not been properly affixed.

17. The questions appear to have been prepared to bring out that the MRB Nurses were not doing same work as a regular nurses. The Scrutiny Committee had noted that with reference to assignment of specialised duties, the questionnaire could attract only negative answers and when the committee had interacted and questioned the



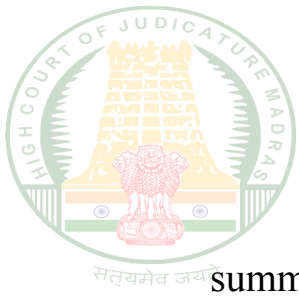
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nurses, they learnt that some of the specialised duties were not even allotted to the regular nurses. Despite this, the negative answers given by the MRB Nurses in the questionnaire have been used against them as if they were not discharging the duty as a regular nurses.

18. The Committee would further report that during their interaction with all the stake holders it was brought to light that the MRB Nurses perform and discharge the same duties as that of the regular nurses. The duties assigned to both the cadres are one and the same, shifts are the same and in the case of any exigencies / emergencies in any establishment they are posted to work there along with the regular nurses.

19. In para.No.35 of their report the Scrutiny Committee has



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summed up their interaction with the officials as follows:

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“35.In any event, the Committee after elaborate interactions with all the Officials, and the representative of the staff side, is of the considered view that conferring “In Charge” position on some regular nurses in some specialised duties does not make the position of the MRB Contract Nurses any inferior. Such position is given to a few regular experienced nurses and not to everyone. It is not on the basis of any special qualification or attributes. Therefore, it is a myth that the contract nurses cannot hold “Incharge” position and hence are not doing the duties of the regular nurses. Holding “Incharge” position is only one facet of overall duties assigned to the nurses.



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That alone cannot be cited as a reason for a different treatment in the matter of extending the benefit of pay parity. Labelling them as contract nurses in the normal sense and denying them certain type of duties is not the fault of the contract nurses. Such differentiation obviously is for different reasons and has no nexus with their actual allocation and discharge of duties in comparison with the regular nurses.”

20. The Scrutiny Committee has also stated that the post of MRB Nurses had been introduced in the early 90s when the Government had come up with various health schemes as a part of National Health Mission and these projects were managed substantially by the MRB



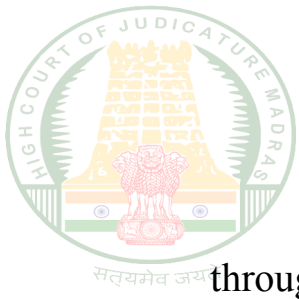
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Nurses over the period of time. Further, the Committee has found that the overall Hospital management in the State cannot be successfully handled without the services of MRB Nurses particularly in the public health centres where almost all centres are run by the MRB Nurses.

21. Further, the Scrutiny Committee has found that with limited number of regular nurses available at the Hospitals, achieving the three shifts in these Hospitals was possible only with the presence of the MRB Nurses. They have opined that without the MRB Nurses 24 hour care given to a patient would stand crippled. The appointment of MRB Nurses therefore is not on Ad hoc basis.

22. The other fact which has been an eye opener, on going

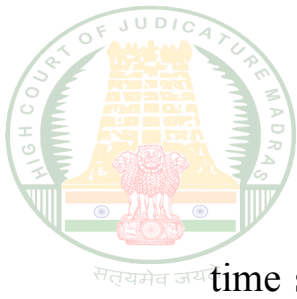


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through the report of the scrutiny committee, is the sanctioned strength of regular and MRB nurses in the Directorate of Public Health and Preventive Medicine. The sanctioned strength of regular nurses are 1387 and the sanctioned strength of MRB Nurses is whopping number of 8573 which clearly shows that Directorate of Public Health and Preventive Medicine is run primarily by the MRB Nurses.

23. The Committee has filed the various Government Orders relating to creation of additional post which is one of the objectives of the National Urban Health Mission Frame Work of Government of India, i.e., Urban Primary Health Centres which has to be established for every 50000 population under the National Urban Health Mission. The State Government has now adopted a policy of creation two new



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time scale post under 1:2 ratio worked out between regular time scale post and contract post. What was meant to be a one time measure has become the order of the day with a new channel of appointment being created in the form of appointing MRB nurses.

24. The Committee had summed up the intent of this Government Orders in Para No.48 of the report as follows:

“48.From the cumulative reading of the above Government orders what could be seen is that the Public Health Care in the State have been witnessing continued expansion for the benefit of the public, correspondingly there has been a constant recruitment of MRB Contract Nurses, along with Regular Nurses for managing the



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Health Care initiatives. In the entirety of circumstances, it can be rightly concluded that MRB contract nurses constitute the backbone of the State's overall Health Care.”

25. The committee also opined that the two sets of post namely, regular and MRB Nurses are not based on any intelligible criteria. They have concluded that it could have been done for the purpose of grant of pay. In paragraph No.54 of the report the Committee observed as follows:

“54.Apart from the denial of pay, the Committee learnt that MRB contract nurses are not eligible to avail leave including maternity leave as in the case of regular



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nurses. If they were to avail maternity leave, it will be leave on loss of pay. The deprivation is therefore not only in respect of pay but also other normal benefits enjoyed by the regular nurses. In short MRB contract nurses have been meted out step motherly treatment, notwithstanding the fact that the same work / duties as that of the regular nurses have been extracted from them. As a matter of fact calling them as “contract nurse” is misnomer. The action of the government in designating them as MRB contract nurses is in itself contradictory as these nurses are recruited through regular selection like that of the regular nurses after following the communal roster. The tag “Contract” hung on them is mere nominal, which cannot



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*be the basis for denying them the pay parity other perks
and privileges enjoyed by the regular nurses, for indefinite
period of time.”*

26. The committee has, after this extensive exercise come to the conclusion that the MRB Nurses are discharging and performing the identical duties as that of the regular nurses and distinction which is sought to be made is nothing but contrived and a sham distinction. Therefore, the denial of equal pay and service benefits to the MRB Nurses is without any basis.

27. This Court has gone through this elaborate report and it is



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clear that the Core Committee has only done lip service in attempting to comply with the orders of this Court and it appears that their only intent was to make out that the MRB Nurses are not doing the same work as that of the regular nurses.

28. In the light of the detailed report of the Scrutiny Committee this Court directs the respondent / contemnor to comply with the order dated 11.06.2018 of the Court by granting equal pay with service benefits to the MRB Nurses in the State within a period of 3 months from the date of receipt of the copy of the order. This Court places on record its appreciation for the Scrutiny Committee for the elaborate, painstaking and detailed report that has been submitted and directs the 1st respondent to pay an additional remuneration of Rs.5,00,000/- each



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to the Committee Members, namely, Justice V.Bharathidasan (Retd.,)
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and Justice V.Parthiban (Retd.,) within a period of 2 weeks from the
date of receipt of the order.

29. With the above directions, the contempt petition is closed for
the present. It is needless to state that if there is non compliance of the
direction, this Contempt Petition can be reopened.

[R.S.M., J] & [P.T.A., J]

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Pre-delivery Judgment in

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