



W.A.(MD)No.1310 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 28.04.2025

PRONOUNCED ON : 18.07.2025

CORAM:

THE HONOURABLE **MRS.JUSTICE J.NISHA BANU**

AND

THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

W.A.(MD)No.1310 of 2023

&

C.M.P.(MD)Nos.9925 & 9926 of 2023

T.M.Senthiarasi

... Appellant

-Vs-

1.The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Health and Family Welfare Department,
Fort St.George, Chennai-600 009.

2.The Director / Commissioner,
Directorate of Indian Medicine and Homeopathy,
Chennai-600 106.

3.The Principal,
Government Ayurveda Medical College and Hospital,
Kottar, Nagercoil, Kanyakumari District.

... Respondents

PRAYER: Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 03.04.2023 made in W.P.(MD)No.7427 of 2023 on the file of this Court.

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For Appellant : Mr.N.Dilip Kumar,
for Mr.J.Sankara Pandian
For Respondents : Mr.J.Ravindran,
Additional Advocate General,
assisted by Mr.M.Sarangan,
Additional Government Pleader

JUDGMENT

[Judgment of the Court was delivered by ***J.NISHA BANU, J.***]

This Writ Appeal is directed against the order dated 03.04.2023 made in W.P.(MD)No.7427 of 2023.

2.The case of the appellant / writ petitioner reads as follows:-

(i)She was appointed as Assistant Medical Officer (Ayurveda) in the Government Primary Health Centre at Muthur, Erode District and she joined duty on 05.06.2008. Thereafter, she was regularized in the said post with effect from 05.06.2008 by way of G.O.(2D)No.122, dated 07.12.2015 issued by the 1st respondent.

(ii) Subsequently, vide G.O.(D)No.190, dated 04.03.2008 issued by the 1st respondent, she was posted in Ayurveda Medical College, Nagercoil, Kanyakumari District on deputation. Thereafter, she made request to the

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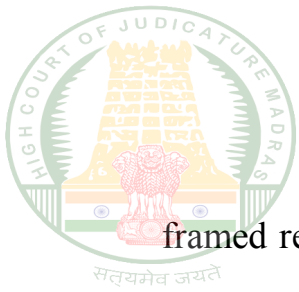
respondents to consider her appointment in the regular category.

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(iii) Since it was not considered, she along with other colleagues filed W.P.No.26668 of 2011, wherein this Court, vide order dated 23.11.2011, directed the respondents 1 and 2 to consider the request of the petitioners in the post of teaching faculty forthwith. Pursuant to the same, the writ petitioner was re-designated and appointed as Lecturer Grade – II in the 3rd respondent College pending framing of Adhoc Rules Vide G.O.(Ms)No.12, dated 18.03.2013.

(iv) Though the said order came into existence, the respondents had not implemented the same by extending all the consequential benefits to the writ petitioner and therefore, she filed W.P.No.25482 of 2014. Pending the same, the 1st respondent issued another order in G.O.(Ms)No.15, dated 19.01.2017 for implementing the earlier order, where the writ petitioner has been re-designated and appointed as Lecturer Grade – II with all consequential benefits and it was made clear in the said G.O., that the deputation period shall be treated as teaching experience from the date the writ petitioner has been deputed as teaching faculty for the purpose of consequential benefits.

(v) Pursuant to the same, the 2nd respondent passed an order by posting the writ petitioner temporarily as Reader with Full Additional Charge in the Department of Kaumarabhritya pending framing of Adhoc Rules in the 3rd respondent College. Thereafter, in the year 2018, the Adhoc Rules have been



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framed relating to the temporary posts in Government Ayurveda Medical College and Hospital in Tamil Nadu Medical Service and the same was published in Tamil Nadu Government Gazette on 09.05.2018.

(vi) Since the writ petitioner was having the complete eligibility for the post of Reader / Associate Professor on permanent basis, she submitted a representation before the respondents. On receipt of the same, the 3rd respondent issued a communication dated 25.06.2018, stating that the post of Reader / Associates Professor could be filled up only as per Adhoc Rules. However, the 3rd respondent failed to consider the fact that the writ petitioner was having all the eligibilities, which were required in Adhoc Rules from the year 2014. Therefore, she made a representation to the respondents on 20.03.2020. Since the same was not considered, she filed W.P.(MD)No.10308 of 2020, which was disposed of by this Court, vide order dated 28.08.2020, directing the respondents 1 and 2 to consider the request of the writ petitioner.

(vii) Thereafter, the writ petitioner sent a representation dated 28.11.2020 to the respondents 1 and 2. On receipt of the same, the 2nd respondent issued a communication dated 27.01.20201, informing that the writ petitioner's request had been sent to the Government for consideration. Thereafter, no steps had been taken by the respondents 1 and 2. Therefore, the writ petitioner filed Cont.P.(MD)No.1765 of 2022. When the said petition was taken up for hearing,



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the authority concerned appeared before this Court and informed that the order of this Court had been complied with and it was also communicated to the writ petitioner that the 1st respondent had passed an order on 26.12.2022, rejecting the request of the writ petitioner. Challenging the same, the writ petitioner has filed the present Writ Petition.

3.The learned Single Judge, after considering the rival claim, disposed of the said Writ Petition, vide order dated 03.04.2023, holding that the posts, namely, Lecturer and Lecturer Grade – II are different and for the post of Reader, the post of Lecturer is only feeder category by referring to the Adhoc Rules created in G.O.(Ms)No.125, dated 10.04.2018.

4.Challenging the said order passed by the Writ Court, the writ petitioner filed the present Writ Appeal.

5.The learned counsel appearing for the appellant / writ petitioner would submit that the teaching positions, hierarchy, qualification and experience in Government Ayurveda Medical College Hospital are governed under the regulations framed by the Central Council of Indian Medicine / National



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Commission for Indian System of Medicine (CCIM / NCISM). In the said regulations only three teaching posts are described, namely, Professor, Associate Professor / Reader and Assistant Professor / Lecturer. For all the three posts, educational qualification is same, however, teaching experience varies. Therefore, while starting the College, the Government has to recognize the non-availability of Reader with adequate teaching experience provided for appointment in the initial post and later to move them up as and when they acquire the necessary teaching experience by way of upgradation. Accepting the same, the Government granted benefits to similarly placed other candidates, namely, Clarence Davy, who is presently working as Principal and Nandhinee Vijay, who is presently working as Reader. They were appointed vide G.O.(D)No.1195, dated 20.10.2022 and G.O.(D)No.1725, dated 20.11.2019 respectively. Therefore, the appellant ought to be moved as Reader on completion of 5 years teaching experience and further as Professor on completion of further 5 years teaching experience. However, the same was not considered by the Writ Court.

6. He would further submit that the Adhoc Rules cannot supersede the CCIM regulations. It is related only to the temporary posts as specified in G.O itself. It was framed on 09.05.2018 and it cannot control the appellant's service, who got appointed in August, 2009 and was posted as Reader with effect from

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30.12.2014. Even as per Adhoc Rules, the educational qualification for the post of Professor / Reader / Lecturer Grade – II is one and the same, only the teaching experience differs. Therefore, the appellant is eligible to be regularized in the post of Reader from 30.12.2014 and for further promotion to the post of Professor upon completion of further 5 years of teaching experience in December 2019. Therefore, the appellant ought to be regularized in the post of Reader with effect from 30.12.2014 with all consequential benefits.

7. In support of his contention, he has also placed reliance on the following judgments:-

(i)***Dr.Asim Kumar Bose Vs. Union of India and others*** reported in **1983 1 SCC 345**;

(ii)***Raman Kumar and others Vs. Union of India and others*** reported in **2023 LiveLaw (SC) 520**;

(iii)***Union of India and others Vs.Munshi Ram*** reported in **2022 SCC Online SC 1493**; and

(iv)***T.Sudarmani and others Vs. State of Tamil Nadu, rep. by Principal Secretary to Government, School Education Department, Fort St.George, Chennai-600 009 and others*** in W.A.Nos.3366 of 2023 etc., dated 17.05.2024.



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8. The learned Additional Advocate General appearing for the respondents would submit that under the Adhoc Rules, the appellant might have been eligible to hold the post of Reader, however, initially, she was appointed only as Assistant Medical Officer and only on deputation basis for the past several years, she has been working in teaching line in Government Ayurveda Medical College and Hospital and for the purpose of appointment as Reader in the Medical Education Services, there must be a separate procedure to be adopted and therefore, only a fresh appointment can be made and the appellant cannot be absorbed directly as a Reader. Therefore, the request of the appellant has been rejected. Therefore, the Writ Appeal has to be dismissed.

9. Heard the learned counsel on either side and perused the materials available on record carefully.

10. It is seen from the records that the appellant has been in continuous service for almost 14 years as a member of teaching faculty (i.e., from 12.08.2009, when the appellant was posted to the said college on deputation as teaching faculty). At the relevant point of time, she was redesignated as Lecturer Grade II with all consequential benefits, vide G.O.(Ms). 15 dated 19.01.2017. Subsequently, the 3rd Respondent, through communication vide Ref. No.



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2815/E/2014 dated 30.12.2014, stated that the appellant was posted as a Reader in the Department of Kaumarabhritya with effect from 30.12.2014. Consequently, the 2nd Respondent issued an order, vide Ref.No.9894/E1/1/2010 dated 13.06.2017, temporarily posting the appellant as Reader with Full Additional Charge, pending framing of the Adhoc Rules.

11. It is evident that the teaching Positions, hierarchy, qualifications, and experience requirements in Government Ayurveda Medical Colleges are governed by the regulations framed by the Central Council of Indian Medicine/ National Commission for Indian System of Medicine. Notably, the **requisite** educational qualifications for the three recognised posts of Professor, Associate Professor/Reader and Assistant Professor/Lecturer are the same, with the only distinction being the required teaching experience.

12. As pointed out by the learned counsel for the appellant, since several individuals who were appointed under Rule 10(a) (1) of the Tamil Nadu State and Subordinate Service Rules were promoted to the Posts of Reader as well as to the post of Principal in the very same college, the appellant alone was not considered for such promotion. The appellant, therefore, has a legitimate expectation to be promoted to the post of Reader upon completion of 5 years of Teaching



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Experience, and subsequently to Professor after a further five years of experience as envisaged under the statutory regulations.

13. In our view, it is the obligation of the respondents to grant Time scale of pay as per the statutory regulations to the appellant. But in the case on hand, the appellant has been kept in the posting on a temporary basis for the past 8 years and that too without any change in her pay scale, which warrants judicial interference. Taking into consideration the appellant's service as Reader since 30.12.2014 and also taking note of her extensive teaching experience and long time service, this court is inclined to set aside the impugned order dated 03.04.2023 passed by the learned single Judge.

14. Keeping in view the fact that the appellant has acquired the requisite teaching experience as envisaged under the statutory regulations framed by the Central Council of Indian Medicine (now called as The National Commission for Indian System of Medicine), and also considering the post held by the other similarly situated employees and their time scale of pay in the 3rd Respondent College and that their services having been regularized, the non-consideration of the appellant's case would amount to discrimination and violative of Article 14 of the Constitution of India. Further, in our view, the 3rd respondent Government

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institution being entrusted with upholding the principles of fairness and justice,
bear an even greater responsibility to avoid such unfair employment practices.

15. In view of the foregoing observation, we direct the Respondent to confirm and regularize the service of the appellant to the post of Reader in the Department of Kaumarabhartiya in the third Respondent's college taking into account her requisite teaching experience and long standing service in the said post of Reader by relaxing the relevant adhoc rule.

16. With the above direction, this Writ Appeal is allowed. No costs.
Consequently, connected miscellaneous petitions are closed.

[J.N.B., J.] & [S.S.Y., J.]
18.07.2025

NCC : Yes / No
Index : Yes / No

Yuva/nvsri

To

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

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2.The Director / Commissioner,
Directorate of Indian Medicine and Homeopathy,
Chennai-600 106.

3.The Principal,
Government Ayurveda Medical College and Hospital,
Kottar, Nagercoil, Kanyakumari District.



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J.NISHA BANU, J.
AND
S.SRIMATHY, J.

Yuva/nvsri

Pre-Delivery Judgment made in
W.A.(MD)No.1310 of 2023

18.07.2025



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J.NISHA BANU, J.
AND
S.SRIMATHY, J.

This Writ Appeal is listed today under the caption 'for being mentioned' at the instance of the learned counsel for the appellant.

2. The learned counsel for the appellant submitted that in para No.15 of the order dated 18.07.2025 in the writ appeal, the date from which the services of the appellant in the post of Reader has not been specifically mentioned and therefore, the same required to be mentioned in the order.

3. We have considered the request of the appellant.

4. Accordingly, paragraph No.15 of the order dated 18.07.2025 is substituted with following directions:-

“ 15. In view of the foregoing observation, we direct the Respondent to confirm and regularize the service of the appellant to the post of Reader with effect from 30.12.2014 and whatever benefits available to the petitioner from

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30.12.2014 shall be disbursed to the petitioner and the said exercise shall be completed within twelve (12) weeks from today taking into account her requisite teaching experience and long standing service in the said post of Reader by relaxing the relevant adhoc rule”.

4. Registry is directed to carry out necessary corrections in the order dated 18.07.2025 and issue fresh order copy to all the parties. The other portions of the order shall remain intact.

[J.N.B., J.] & [S.S.Y., J.]
08.10.2025

PJL/nvsri

Note: Issue order copy on 17.10.2025

To

1. The Principal Secretary,
Government of Tamil Nadu, Health and Family Welfare Department,
Fort St. George, Chennai-600 009.
2. The Director / Commissioner,
Directorate of Indian Medicine and Homeopathy, Chennai-600 106.
3. The Principal,
Government Ayurveda Medical College and Hospital, Kottar, Nagercoil,
Kanyakumari District.

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PJL

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08.10.2025