

W.P.(MD).No.2653 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.02.2025

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.2653 of 2017

and

W.M.P.(MD)No.2193 of 2017

T.R.Valsakumari

... Petitioner

Vs.

- 1.The Principal Secretary,
Health and Family Welfare Department,
Government of Tamilnadu,
Secretariat, Fort St. George,
Chennai – 600 0009.
- 2.The Director of Public Health and Preventive
Medicine,
Office of the Director of Public Health and
Preventive Medicine,
Thenampet, Chennai-600 006.
- 3.The Deputy Director of Health Services,
Nagercoil, Kanyakumari District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a ***Writ of Certiorarified Mandamus***, to call for the records of the 1st and 2nd respondent vide proceedings in R.No. 145572/MP2/S1/2010, dated 25.11.2016 and proceedings in Letter No. 42441/L2/2016-3, dated 16.12.20216, Health and Family Welfare (L2) Department and to quash the same and further, to direct the respondents to



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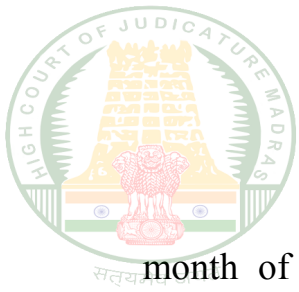
promote the petitioner to the post of Social Science Instructor in the existing vacancy with all monetary benefits within the time frame that may be stipulated by this Court.

For Petitioner : Mr.A.Robinson
For Respondents : M/s.D.Farjana Ghoushia
Special Government Pleader

ORDER

The present writ petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned orders, dated 25.11.2016 and 16.12.20216 and direct the respondents to promote the petitioner to the post of Social Science Instructor in the existing vacancy with all monetary benefits within the time frame stipulated by the Court.

2. The petitioner has completed 18 months Multipurpose Health Worker (Female) Training Course and was appointed as Multipurpose Health Worker (Female) at Eittahaveli Health Sub Centre, Government Primary Health Centre, Kuttakuzhi on 30.03.1986 and had registered the name in Tamilnadu Nursing and Mid Wives Council on 31.12.1991. The petitioner has completed SSLC in the year 1983 and completed Higher Secondary in the month of September, 2001. Thereafter, acquired Post Graduate Degree in Sociology in the



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month of May, 2005 and then acquired a Post Graduate Diploma in Health Promotion and Education in the month of April 2011 and again acquired Under Graduate Degree in Sociology in the month of May, 2012. The 2nd respondent, vide proceedings, dated 21.02.2013, sent a communication to all the subordinate offices in Tamilnadu to fill up the two posts of the Social Science Instructor at Madurai and Egmore. The following qualifications were prescribed for the said post:

"1. 1st or 2nd class of Master Decree or other Post-Graduate Degree in Social Work or Sociology or Social Psychology or Statistics or Population Study.

Provided that preference shall be given to those who possess Diploma in Health Education and have experience in teaching or in Family Planning Work.

2. Must have experience as Scientist or Research worker for the period of not less than two years.

Provided that preference shall be given to those who have experience in Family Planning work."

3. According to the petitioner, the petitioner has fulfilled all the qualifications prescribed under the rules. Hence, the petitioner applied for the post of Social Science Instructor and the petitioner's name was also short listed for the promotion of the said post. The petitioner preferred W.P.(MD)No.17593 of



2014 to consider for promotion, since the petitioner is fully qualified to be promoted to the post of Social Science Instructor and this Court also directed the respondents to consider the petitioner's name for the Social Science Instructor, vide order, dated 02.12.2014. In pursuant to the order of this Court, the 2nd respondent, vide letter, dated 27.02.2015, informed to the petitioner that the proposal of panel list including the petitioner's name has been sent to the Government for the promotion and selection order is awaited. In the meanwhile, the 3rd respondent by proceedings, dated 16.04.2015, has imposed a punishment of stoppage of increment for the period of one year with cumulative effect and the same was challenged in W.P(MD)No.6662 of 2015. This Court disposed of the said writ petition on 24.04.2015 with liberty to file an appeal before the respondents and directed the respondents to complete the appeal within two months from the date of preference of appeal. Accordingly, the petitioner preferred an appeal before the 2nd respondent and the 2nd respondent by proceedings, dated 25.11.2015, reduced the punishment from stoppage increment into censure. Again, the petitioner filed W.P.No.32013 of 2016 before the Principal Seat to consider the petitioner for promotion for the post of Social Science Instructor, wherein the Court directed the respondents to consider the petitioner's representation, vide order, dated 15.09.2016. Thereafter, the 1st respondent passed the impugned order rejecting the petitioner's claim for



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promotion to the post of Social Science Instructor, since the petitioner has acquired the Master Degree in Open University without acquiring Under Graduate / Bachelor Degree. As per G.O.Ms.No.116, Personal and Administrative Reforms (M) Department, dated 18.08.2010, those who possess Post Graduate Degree through Open University without acquiring a basic degree cannot be considered for the appointment of Public Services and further, it is stated in the impugned order that the petitioner acquired Post Graduate Degree in the year 2005 through Open University and later, he acquired Under Graduate Degree in the year 2012 through Open University and the same cannot be taken into account as eligible qualification to consider the petitioner's name for promotion to the post of Social Science Instructor in the Tamilnadu Public Health Service. Aggrieved over the same, the present writ petition is filed.

4. The 2nd respondent has filed a counter affidavit stating that since the petitioner has not acquired the pre requisite educational qualifications as specified under Section 25 of Tamil Nadu Government Servants (Conditions of Service) Act, 2016, wherein it is stated that the person should acquire PG Degree after completing SSLC, HSC and UG Degree (10+2+3+2) or (10+2+3+3) from University or Institution recognized by the University Grants Commission. Since



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the petitioner has acquired PG Degree first and thereafter, acquired UG Degree, the same is not eligible for consideration. Further, the petitioner has underwent disciplinary proceedings, when the petitioner's turn arose. Therefore, the 2nd respondent submitted that the petitioner is not eligible for consideration.

5. After hearing the rival submissions, this Court is of the considered opinion that whenever pre requisite educational qualification are not acquired as per the method of (10+2+3+2) or (10+2+3+3), the person is not eligible for consideration. This issue is already settled in several judgments.

6. The learned Counsel appearing for the petitioner submitted that the respondents invoked Tamil Nadu Government Servants, (Conditions of Service) Act, 2016. But the petitioner has submitted an application in the year 2013 itself. Therefore, the said Act is not applicable and the said Act cannot apply retrospectively. The said contention cannot be considered, since prior to this Act, the Tamil Nadu Subordinate Service Rules are applicable and the provisions are pari materia same. Therefore, the petitioner is not eligible for consideration.

7. As far as the punishment is concerned, the said issued is not



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considered because the petitioner is not coming within the zone of consideration.

And the issue is left open.

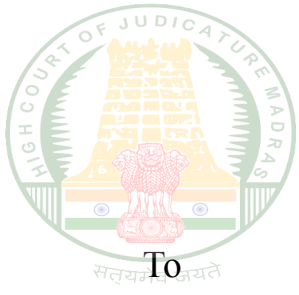
8. Further, it is submitted by the learned Special Government Pleader appearing for the respondents that the petitioner was already granted promotion to the post of Sector Health Nurse on 28.09.2017. Further, it is brought to the notice of this Court that the said Sector Health Nurse will come under Director of Public Health whereas the petitioner is seeking Social Science Instructor post which will come under entirely different department, i.e., Health and Family Welfare Department. Therefore, the petitioner is not eligible in this angle also.

9. Hence, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

06.02.2025

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

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To

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- 1.The Principal Secretary,
Health and Family Welfare Department,
Government of Tamilnadu,
Secretariat, Fort.St.George,
Chennai – 600 0009.
- 2.The Director of Public Health and Preventive
Medicine,
Office of the Director of Public Health and
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S.SRIMATHY, J.

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