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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-01-2026

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THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

WA No. 249 of 2026

AND

CMP NO. 2254 OF 2026,CMP NO. 2258 OF 2026

Ramyapriya

..Appellant(s)

Vs

1. The Secretary to Government
Health and Family Welfare Department,
Fort St.George,
Chennai-09
2. The Director of Medical Education
Poonamallee High Road,
Kilpauk, Chennai-10
3. The Director of Medial and Rural Health
services
DMS Building, Annasalai,
Teynampet, Chennai-06
4. The Chairman
Tamilnadu Public service commission,
TNPSC Road, Broadway,
Chennai-03

..Respondent(s)



Writ Appeal filed under Clause 15 of the Letters Patent issuing writ of certiorari mandamus, to set aside the Order dated 12.01.2026 passed in W.P.No.1155 of 2026 and thus render justice.

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For Appellant(s): Mr.K.S.Viswanathan,
Senior Counsel For Mr.Ali Hassan Khan
For Respondent(s): Mr.K.Tippu Sultan,
Government Advocate For Rr1 To 3.

Judgment

(Judgment of the Court was delivered by S.M.Subramaniam J.)

The present intra-court appeal under Clause 15 of Letter Patent has been instituted by the appellant, who is an open market candidate aspiring to secure public employment in the Department of Medical and Rural Health Services.

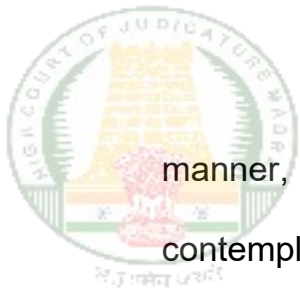
2. Admittedly, no direct recruitment notification has been issued nor the appellant has participated in the process of selection so far. However, the appellant filed the writ petition in WP.No.1155 of 2026 challenging the circular issued by the Director of Medical Education, dated 30.12.2025, inviting service particulars from the in-service candidates for preparation of panel to the post of Nursing Tutor Grade II for the year 2025-26. Writ Court found that writ is not only premature but the impugned circular dated 30.12.2025 is nothing but inviting particulars from the Head of Medical Institution for the purpose of preparing a panel. On that ground, writ Court dismissed the writ petition.



3. Subsequently, after passing of the writ order impugned, department has prepared a temporary list for promotion to the post of Nursing Tutor Grade II for the year 2025-26 vide Proceedings, dated 23.01.2026. The said temporary list as well as promotional counselling for Nursing Tutor Grade II notified by the Director of Medical Education and Research, Chennai dated 26.01.2026, challenging the temporary list, some other open market candidate filed another writ petition in WP.Nos.2890 and 2892 of 2026, and those writ petitions are pending before the learned Single Judge.

4. Mr.Viswanathan, learned Senior Counsel would mainly contend that the ratio has been fixed for promotion and direct recruitment. Therefore, it is mandatory on the part of the respondents to effect direct recruitment by issuing notification by affording opportunity to the eligible candidates, who all are aspiring to secure public employment in the Department of Medical and Rural Health Services. In other words, learned Senior Counsel states that a right is conferred to the open market candidates by fixing ratio for direct recruitment. Now an attempt has been made to fill up all the posts in the Department, which would deprive the rights of the aspiring candidates, who are longing to secure public employment through open competitive process.

5. No doubt, equal opportunity to public employment and promotion are the basic rights of the eligible aspiring candidates and in-service candidates. Once the Rule contemplates that recruitment is to be conducted in a particular



manner, then authorities are bound to conduct the same in the manner contemplated under the Rules. However, in the present case, no direct recruitment process has been undertaken so far.

6. An open market candidate has no locus to insist upon the Government to issue a recruitment notification for open competitive process. Whenever such notification is issued, then alone, he may participate in the process of selection. On certain emergency circumstances, the medical department or any other department may fill up the posts to meet-out exigencies, which would not provide a cause for the open market candidate to challenge the promotion or appointment by transfer of service in respect of the in-service candidates already working in Government departments. Open market candidates as well as the in-service candidates cannot be considered as equals. They are unequals. Therefore, the equality clause or comparing the promotional opportunities or orders of promotion issued to the in-service candidates, cannot be a ground to assail the temporary list or promotions granted to the in-service candidates.

7. Filling up of the posts is the prerogative of the Government/Employer. High Court in exercise of the powers of judicial review cannot interfere with the routine administration of the Government departments. Only in the event of violation of Recruitment Rules, if any open competitive process is notified, then alone such violations, if any can be considered by the Courts.



8. In the present case, the appellant is not an in-service candidate, but an aspiring open market candidate to secure public employment. That being so, he cannot challenge the temporary lists or an order of appointment by transfer issued in respect of in-service candidates. It is for the appellant to participate in the process of selection, if any recruitment notification is issued for direct recruitment. Accordingly, the writ appeal is dismissed. No costs. The connected miscellaneous petitions, if any, are closed.

(S.M.S.,J.) (C.K.,J.)
30-01-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

GD

To

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