

**Central Administrative Tribunal
Madras Bench**

OA 310/01043/2019

Dated Monday the 16th day of December Two Thousand Nineteen

P R E S E N T

**Hon'ble Shri. P. Madhavan, Member (J)
&
Hon'ble Shri. T. Jacob, Member (A)**

S. Saranya
W/o. T. Vimaladithan
No. 8, Gangai Amman Koil Street
Pangur, Thennal Post
Villianur Commune
Puducherry – 605 102.

... Applicant

By Advocate M/s. S. Prem Auxilian

Vs

1. Union of India
Rep. By its Secretary to Government
Health and Family Welfare Service
Chief Secretariat Building
Puducherry.

2. The Director
Directorate of Health and Family Service
Puducherry.

3. The Officer on Special Duty
Directorate of Health and Family Service
Puducherry.

... Respondents

By Advocate Mr. R. Syed Mustafa

ORAL ORDER

Pronounced by Hon'ble Mr. P. Madhavan, Member(J)

The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

“a. Declare that one of condition stipulated under the Head of Nativity/Residence of impugned Notification vide No. A.12020/1/2017/E5/DHFWS dated 3.9.2017 issued by the 2nd respondent that “those who are the native of Union of Territory of Puducherry by continuous residence in the UT of Puducherry for the last 5 years immediately preceding the closure date of notification are only eligible to apply for the posts” is highly illegal, arbitrary, unreasonable and violative of article 14, 16 & 21 of the Constitution of India as it being restricted only to the candidates, who are the Native/Residence of Union Territory of Puducherry.

b. Consequently direct the respondents to issue appointment order in favour of the applicant and accommodate her for the post of Staff Nurse re-designated as “Nursing Officer” in suitable place forthwith, forthwith in UR (unreserved)/General quota, in pursuant to the Selection list dated 5.3.2019 in A.12020/1/2017/E5/DHFWS issued by the 2nd respondent, by holding that the said condition stipulated under the head of Nativity/Residence in the impugned Notification vide No. A.12020/1/2017/E5/DHFWS dated 3.9.2017 issued by the 2nd respondent is applicable only to those candidates who are claiming reservation benefits under the said notification and not those who were selected against/under UR(unreserved) General Quota/Category and

c. Award costs on the respondents and pass such further or other orders as this Court may deem fit and proper in the circumstances of the case”

2. When the matter came up for hearing, learned counsel for the applicant submits that the applicant was sponsored by the Employment Exchange Puducherry for recruitment for the post of “Staff Nurse” under UR Category and she applied for the said post. The applicant was placed at Sl No. 5 in the waiting list. The applicant was called for certificate verification. But the candidature of the applicant was not considered for want of Residence Certificate. The applicant submits that the production of Residence Certificate is not applicable for the candidates who were selected against UR/General Category.

3. Learned counsel for the applicant relies on the decision of the Hon'ble High Court reported in (2015) 2 MLJ 1 wherein it is stated as follows:

“18. In fine, the writ petition is allowed and it is ordered that for filling up the vacancies notified viz., for appointment of Civil Judges (Junior Division) in Puducherry Judicial Service pursuant to Notification dated 23.11.2014, candidates belonging to Puducherry Union Territory alone are entitled for selection against the notified reserved vacancies: two for OBC and one vacancy for Scheduled Caste, and the candidates belonging to other States can compete only for the vacancies under General/unreserved category.....”

4. Learned counsel for the respondents submits that the matter is pending before the Hon'ble Supreme Court and the matter has not reached finality.

5. In view of the submissions made by either side, we feel it appropriate to dispose of this OA with the following directions:

The respondents are directed to provide with the provisional

**appointment to the applicant to the post of Staff Nurse
subject to the outcome of the SLP pending before the Hon'ble
Supreme Court.**

6. OA is disposed of.

(T. Jacob)
Member(A)
AS

16.12.2019

(P. Madhavan)
Member (J)