

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.17279 of 2007
(O.A.No.1878 of 2003)

Dr.G.Elangovan

.. Petitioner

-vs-

1. The State of Tamil Nadu
rep.by its Secretary
Department of Health and Family Welfare
Fort St.George
Chennai 600 009
2. The Secretary to Government
Government of Tamil Nadu
Department of Personnel and Administrative Reforms
Fort St.George
Chennai 600 009
3. The Secretary to Government
Government of Tamil Nadu
Department of Law
Fort St.George
Chennai 600 009
4. The Director of Medical Education
Kilpauk
Chennai 600 010
5. The Tamil Nadu Public Service Commission
rep.by its Chairman
Chennai 600 006

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari, to call for the records of the first respondent relating to G.O.Ms.No.220, Health and Family Welfare dated 16.8.2001 and set aside the same as ultra vires and illegal.

For Petitioner	::	No appearance
For Respondents	::	Mr.R.Govindasamy Additional Government Pleader For R1 to R4 NA- For R5

ORDER

Dr.G.Elangovan, who had filed O.A.No.1878 of 2003 before the Tamil Nadu Administrative Tribunal, Chennai challenging the G.O.Ms.No.220, Health and Family Welfare Department dated 16.8.2001 and to quash the same as ultra vires and illegal, as the petitioner, as per G.O.Ms.No.766, Health and Family Welfare dated 4.5.81, had completed eight years of teaching experience for being designated as Professor (Dermatology), hence, he is entitled to be appointed as Dean with effect from 30.4.2001, came to be transferred and renumbered as the present writ petition.

2. The claim of the petitioner shows that he joined the post of Assistant Surgeon in the Government Rehabilitation Leprosy Home, Vinapalli on 20.5.82 and appointed as Tutor (Dermatology) in the Madras Medical College on 31.12.82. Thereafter, he became Assistant Professor of Dermatology in the Madras Medical College on 1.1.84. Again he was appointed as Assistant Professor of Contact Dermatitis and Occupational Dermatology in the Madras Medical College on 28.4.88. Subsequently, he became the Professor and Head of Department of Contact Dermatitis and Occupational Dermatology, Madras Medical College on 31.10.95. After five years, when the Government prepared the panel for the appointment of Deans in the Government Medical College 2000-2001 as per G.O.Ms.No.1564, Health and Family Welfare Department dated 11.12.2000, his name was one amongst the eight persons empanelled for appointment. As per Rule 4 of the Tamil Nadu State and Subordinate Service Rules, the said panel would remain valid for one year ending till 10.12.2001. In the meanwhile, on 12.12.2000, G.O.Ms.No.1592, Health and Family Welfare Department was issued giving posting orders to six persons and three of them also took charge. However, since some of the persons who did not have the qualifications obtained interim orders of status quo from the Tamil Nadu Administrative Tribunal on 4.1.2001, aggrieved by the same, Writ Petition Nos.8872, 8873, 8874 of 2001 were filed and the order of status quo was vacated by this Court on 30.4.2001 restoring the operation of the panel. But, surprisingly, before the expiry of the above panel, the Government issued another G.O.Ms.No.1241, Health and Family Welfare Department dated 30.8.2001 restricting the panel to only two persons as against eight. Therefore, the grievance of the petitioner is that before the expiry of panel, restriction of the estimated vacancies from 8 to 2 is devoid of reason and also arbitrary and mala fide in law. It is also the further contention of the petitioner that the relaxation of the qualification for the post by the Government is in violation of the Medical Council of India guidelines, since the administrative experience of minimum three years has been wrongly brought down to one year. It was also submitted that the reduction of the qualification is aimed at helping their own people. Therefore, the same is illegal and bad.

3. A detailed counter affidavit has been filed by the respondents stating that the petitioner, who joined the Tamil Nadu Medical Service on 20.5.82, completed the post graduation in Dermatology in 1982, hence, he was promoted as Reader in Dermatology and Head of Department of Contact and Occupational Dermatitis, Madras Medical College and Dermatologist, Government General Hospital, Chennai on 31.10.95. He was also considered for promotion to the post of Dean during the panel year 2000-01, for which the crucial date of eligibility was 15.3.2000. On the said date, he had acquired the teaching experience from 1.11.95 to 14.3.2000 i.e., 4 years, 4 months and 14 days. According to the adhoc rules issued in G.O.Ms.No.80, Health and Family Welfare Department dated 13.2.96, the petitioner should have acquired teaching experience for a total period of not less than 10 years as Reader or Professor in a medical college, of which five years shall be as Professor for appointment to the post of Dean. Besides, when the Government had approved a temporary panel in G.O.(D) No.1564, Health and Family Welfare Department dated 11.12.2000 consisting of eight medical officers, the petitioner was in serial No.8 in the temporary panel. Out of the said panel, the first six senior medical officers in the temporary panel upto Dr.A.D.Nageswari were ordered for promotion and posting orders for promotion as Dean. In the meanwhile, some of aggrieved medical officers filed original applications before the Tribunal challenging the G.O.(D).No.1564 dated 11.12.2000 on the ground that the selection was totally contrary to the rules governing the post of Dean of medical colleges issued in G.O.No.80, Health and Family Welfare Department dated 13.2.96, wherein the rules specifically mentioned that the teaching experience of ten years is essential. While preparing the panel it was misconstrued that the petitioner had been fully qualified by combining the total services rendered by him in the teaching institutions as Assistant Profesor and as Reader. Subsequently, certain medical officers had challenged the said Government Order on the ground that the panel had not been prepared strictly in accordance with the rules, namely, the completion of teaching experience and the administrative experience by the officers included in the panel. The said O.A.Nos.9407 to 9430 of 2000 etc., were admitted by granting stay of operation of G.O.Ms.No.80 dated 13.2.96 and the posting orders issued in this connection, except in the case of Dr.S.Kantha and Dr.P.Vijayalakshmi, who were qualified and joined duty as Dean, were kept in abeyance. In view of that, the Government examined the question of revising the panel issued for 2000-01 in G.O.Ms.No.1564 dated 11.12.2000 under Rule 37 of the General Rules for Tamil Nadu State and Subordinate Service and restricted the panel with the first two medical officers who were fully qualified and issued the orders accordingly in G.O.(D) No.1240 dated 30.8.2001. Since the Government have ordered amendment to the special rules for appointment of Deans to the medical colleges in G.O.Ms.No.220, Health dated 16.8.2001, the petitioner has challenged the same. As per the special rules, teaching experience of eight

years is required in the post of Professor/Assistant Professor/Reader in a medical college. But the petitioner has completed only 4 years, 4 months and 14 days of teaching experience as Reader on the crucial date of preparation of panel for the year 2000-01. Therefore, his name was not considered at the time of preparation of panel fit for promotion as Dean in the Government Medical College.

4. As the petitioner failed to possess the requisite medical qualification for being considered as Dean of the Government Medical College, this Court is not able to see any merits in the writ petition. Accordingly, the writ petition fails and it is dismissed. No costs.

Sd/-
Assistant Registrar
Dated:31.3.15

True Copy

Sub Assistant Registrar

To

1. The Secretary to Government
Department of Health and Family Welfare
Fort St.George
Chennai 600 009
2. The Secretary to Government
Department of Personnel and Administrative Reforms
Fort St.George
Chennai 600 009
3. The Secretary to Government
Department of Law
Fort St.George
Chennai 600 009
4. The Director of Medical Education
Kilpauk
Chennai 600 010
5. The Chairman
Tamil Nadu Public Service Commission
Chennai 600 006.

+1 cc to Government Pleader,SR.12940.

br(co)
krd 6/4

W.P.No.17279 of 2007
(O.A.No.1878 of 2003)