

W.M.P.No.15744 of 2016

in

W.P.No.34125 of 2015

M.SATHYANARAYANAN, J.

The learned counsel appearing for the petitioners has drawn the attention of this Court to the affidavit filed in support of this petition and would submit that the petitioners had joined the service on 14.06.1993 and 07.10.1997 respectively as Civil Assistant Surgeon and they obtained super specialty degree in M.Ch.(Neurosurgery) during August 2011 and joined as Assistant Professors and continued to act in that capacity and the next avenue for promotion is Associate Professor and they are eligible to be promoted as Associate Professors. It is the further submission of the learned counsel appearing for the petitioners that since they were recruited much earlier to that of the writ petitioner and that the writ petitioner had joined the post on temporary basis under 10(a)(i) of the Rules on 09.04.2009 and that the relevant rules r/w G.O.Ms.No.354 dated 23.10.2009, holding the field, unless and until the said rules as well as the Government Order are set aside in the manner known to law, the promotion process cannot be stalled as it will ultimately affect the students and prays for modification of the interim order.

2. Per contra, Mr.AR.L.Sundaresan, learned Senior Counsel assisted by M/s.Swarnam J.Rajagopalan, learned counsel appearing for the first respondent/Writ Petitioner would submit that this Court having been satisfied that a *prima facie* case has been made out, had rightly granted interim orders and prays for dismissal of this petition.

4. This Court has carefully considered the rival submissions and also perused the materials placed before it.

5. In the light of the reasons assigned by the petitioner in paragraph Nos.5, 9 and 10 of the affidavit filed in support of this petition, this Court is of the view that the modification of the interim order dated 01.04.2016 is necessary, especially in the interest of the students.

6. In the result, the interim order dated 01.04.2016 granted in W.P.No.34125 of 2015 is modified as follows:

The Writ Petitioner is entitled to participate in the counseling process for promotion to the post of Associate Professors (Neuro Surgeon) and the respondents 2 and 3 in this miscellaneous petition/respondents 1 and 2 in the main writ petition are directed to keep one post vacant for the post of

Associate Professors (Neuro Surgeon) till the disposal of the writ petition.

7. It is also made clear that this interim order is subject to the result of the writ petition and the promotion of respondents 4 and 5 as Associate Professors (Neuro Surgeon) is also subject to the result of this writ petition. It is also made clear that the writ petitioner, by virtue of this interim order, cannot claim any equity at the time of final disposal of the writ petition.

This miscellaneous petition is disposed of accordingly.

vsm

05.07.2016

Note: Issue order copy on 13.07.2016

M.SATHYANARAYANAN, J.

vsm

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