



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

WEB COPY

W.P (MD) No.13292 of 2017

and

W.M.P (MD) No.10360 of 2017

Dr.Vignesh

.... Petitioner

vs.

1) The Government of Tamil Nadu,
Rep by its Secretary,
Department of Health and Family Welfare,
Fort St.George,
Chennai-09.

2) The Director of Medical Education,
Directorate of Medical Education,
Kilpauk,
Chennai-10.

3) Dr.A.Prabhu,
Senior Resident/Assistant Professor of General Medicine,
Madurai Medical College,
Madurai.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of the second respondent dated 20.06.2017 in Ref.No.96130/E3/1/2016-MOs and set aside the same as illegal with respect to the third respondent in serial No.16 of the impugned order and consequently direct the second respondent to transfer the petitioner to Madurai Medical College, Madurai, in the light of clause 10.6 of G.O(2D)No.131 dated 20.11.2007 within a time as may be fixed by this Honourable Court.

For Petitioner : Mr.A.Mohan

For Respondents 1 and 2 : Mr.R.Karthikeyan

Additional Government Pleader

For Respondent No.3 : Mr.C.Arul Vadivel @ Sekar

ORDER

The present writ petition is directed against the impugned order of transfer dated 20.06.2017, transferring and posting several Senior Residents in General Medicine, Government Medical



Colleges on the ground that the same is in violation of the procedure contemplated in G.O(2D)No.131 dated 20.11.2007.

2.Mr.R.Karthikeyan, learned Additional Government Pleader takes notice for respondents 1 and 2 and Mr.C.Arul Vadivel @ Sekar learned counsel takes notice for the 3rd respondent. By consent, the writ petition itself is taken up for final disposal.

3.The learned counsel for the petitioner would submit that the Director of Medical Education, Chennai, without considering the station seniority of the petitioner wrongly transferred the 3rd respondent overlooking the case of the petitioner. Substantiating the said argument, it is stated that the petitioner was promoted to the post of Junior Resident on 02.06.2015 at Government Sivagangai Medical College, Sivagangai, whereas, the 3rd respondent has come to the Government Sivagangai Medical College only on 23.01.2016. Before effecting transfer, the station seniority should be taken into account. As per the station seniority, the petitioner is senior to the 3rd respondent, hence, transferring the 3rd respondent from the previous station namely, Government Sivagangai Medical College Hospital, Sivagangai, to the Madurai Medical College, Madurai, overlooking the case of the petitioner for his transfer to Madurai Medical College, Madurai, is wholly unjustified and also in violation of the Government Order in G.O (2D)No.131 dated 20.11.2007, inasmuch as clause 10.6 of of the said G.O clearly shows that for counting station seniority, the actual period of duty in the present posting alone will be counted, excluding the period spent on leave like, Earned Leave, Medical Leave, Extra-ordinary Leave etc., and also the period of unauthorised absence. This mandatory yardstick being not properly followed in the present case and G.O(2D)No.131 dated 20.11.2007 has been completely given a go-by, the learned counsel pleaded, the impugned order is liable to be set aside.

4.No doubt, the petitioner has joined the Government Sivagangai Medical College, Sivagangai, on 02.06.2015 as Junior Resident, whereas the 3rd respondent has joined the Government Medical College, Sivagangai, only on 23.01.2016. The petitioner appears to have given request transfer to Madurai Medical College, Madurai. However, without considering the same, by impugned order, the 3rd respondent has been transferred to Madurai Medical College, Madurai. Subsequently, by modification order dated 30.06.2017 of the Director of Medical Education, Chennai, the 3rd respondent who stood transferred to Madurai Medical College, Madurai, by way of impugned order has now been transferred and posted as Tutor in OP, Government Rajaji Hospital, Madurai, in the newly created post. However, the petitioner has not challenged the said modification order dated 30.06.2017. Hence, entertaining the present writ petition challenging the earlier transfer of the 3rd respondent is not proper more so when subsequently modification order has been issued and the same not been challenged.



5.Hence, this Writ Petition is dismissed giving liberty to the petitioner to challenge the modification order dated 30.06.2017 in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Crl side)

/ True Copy /

Sub Assistant Registrar(C.S.)

To

1)The Secretary,
Government of Tamil Nadu,
Department of Health and Family Welfare,
Fort St.George,Chennai-09.

2)The Director of Medical Education,
Directorate of Medical Education,
Kilpauk,Chennai-10.

+1cc to M/S.C.ARUL VADIVEL @ SEKAR, Advocate SR.No.66291

+1cc to Special Government Pleader, SR.No. 66957

nbi

MAS/KP/SAR2:07.08.2017:2P-5C

W.P(MD)No.13292 of 2017
19.07.2017