

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07-08-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.11502 of 2018

And

W.M.P.No.13447 of 2018

Faculty of Indira Gandhi Medical College
Association (FIGMA),
Indira Gandhi Medical College and Research
Institute (IGMC&RI),
Represented by its Secretary, Dr.S.Sujindra
Kadirkamam, Puducherry-605 009. .. Petitioner

Versus

- 1.Union of India,
Union Territory of Puducherry,
Represented by its Chief Secretary,
Puducherry.
- 2.The Secretary,
Health Department,
Government of Puducherry,
Puducherry.
- 3.The Director,
Indira Gandhi Medical College and Research Institute,
(A Government of Puducherry Institution),
Vazhoduvar Road,
Kathirkamam,
Puducherry-605 009. .. Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents herein to implement the Time Bound Promotion Scheme to Faculty Members without linkage of vacancies, which has been approved in the 15th Governing Body Meeting of the Perunthalaivar Kamaraj Medical College Society and accepted by the Government of Puducherry in respect of the members of the petitioner-Association.

For Petitioner : Mr.V.T.Gopalan, Senior Counsel for
Mrs.S.Radha Gopalan.

For Respondents: Mr.A.Gandhi Raj,
Government Pleader (Puducherry).

O R D E R

The relief sought for in this writ petition is for a direction to direct the respondents to implement the Time Bound Promotion Scheme to Faculty Members without linkage of vacancies, which has been approved in the 15th Governing Body Meeting of the Perunthalaivar Kamaraj Medical College Society and accepted by the Government of Puducherry in respect of the members of the writ petitioner-Association.

2. The members of the writ petitioner-Association are serving as Assistant Professors and Associate Professors at Indira Gandhi Medical College and Research Institute.

3. The grievance of the writ petitioner-Association is that the General Council Governing Body Meeting approved the Time Bound Promotion Scheme to the Faculty Members. However, the Scheme approved by the Governing Body has not been implemented so far. Thus, the writ petitioner-Association is constrained to move the present writ petition, seeking the benefit of the Time Bound Promotion Scheme already approved by the Governing Body without linkage to the availability of vacancies.

4. The learned Government Pleader, appearing on behalf of the Union Territory of Puducherry, opposed the contention of the learned Senior Counsel appearing on behalf of the writ petitioner-Association, by stating that the Time Bound Promotion Scheme has not been approved by the Government of Puducherry so far. The third respondent cannot implement the Scheme without the approval of the Puducherry Government. However, the proposal received by the third respondent is now pending with the Government of Puducherry for consideration and to take a decision in this regard. Thus, the writ petition is not maintainable at this stage in view of the fact that the Scheme has not been approved by the Government of Puducherry and without the approval of the Scheme, the same cannot be implemented in respect of the members of the writ petitioner-Association.

5. This Court is of an opinion that the respondents 1 and 2, in their counter-affidavit, have stated that the details of Time Bound Promotion are now being worked out, namely, which scale will be available and after how many years of service and after fulfilling which conditions (except, of course, availability of vacancies). In view of the financial implications and tight

present financial conditions of the Union Territory, the matter will be placed before the Government for consideration and approval. The said process will take a month's time to reach its finality.

6. This Court is of an opinion that promotion, as it is, can never be claimed as a matter of legal right. However, consideration for promotion is the fundamental right of an employee. Whenever the process of promotion is commenced by the competent authorities, it is needless to state that all the eligible persons are to be considered based on the rules in force. Thus, the formulation of a Scheme, namely, Time Bound Promotion Scheme or as a matter of fact, any other financial claim, is the administrative prerogative of the authority competent. Only in the event of formulating any such Scheme, a right will accrue to claim the benefit of the Scheme. As of now, the third respondent passed a resolution for grant of Time Bound promotion to the Faculty Members in view of the fact that there is a stagnation amongst the Faculty members, who all are working in the third respondent-College. Thus, in the event of approving the Scheme, the members of the writ petitioner-Association, can get the benefits from and out of the Scheme.

7. The Time Bound Promotion is to be construed as a Special Scheme, which is to be approved by the respondents 1 and 2. The terms and conditions of such Special Schemes are to be framed, considering the various factors and also considering the grievances, if any, on the side of the Faculty Members. Thus, the writ petitioner-Association may submit a representation in this regard to the Government to consider their claims and grievances and the same may also be considered at the time of taking a decision by the Government.

8. In this view of the matter, the relief, as such, sought for to implement the Scheme, cannot be granted in view of the fact that the resolution passed by the third respondent is now under consideration before the Government for grant of approval. In the event of granting approval by the Government, the Scheme shall be implemented in its terms and conditions to the Members of the writ petitioner-Association.

9. With these observations, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

Svn

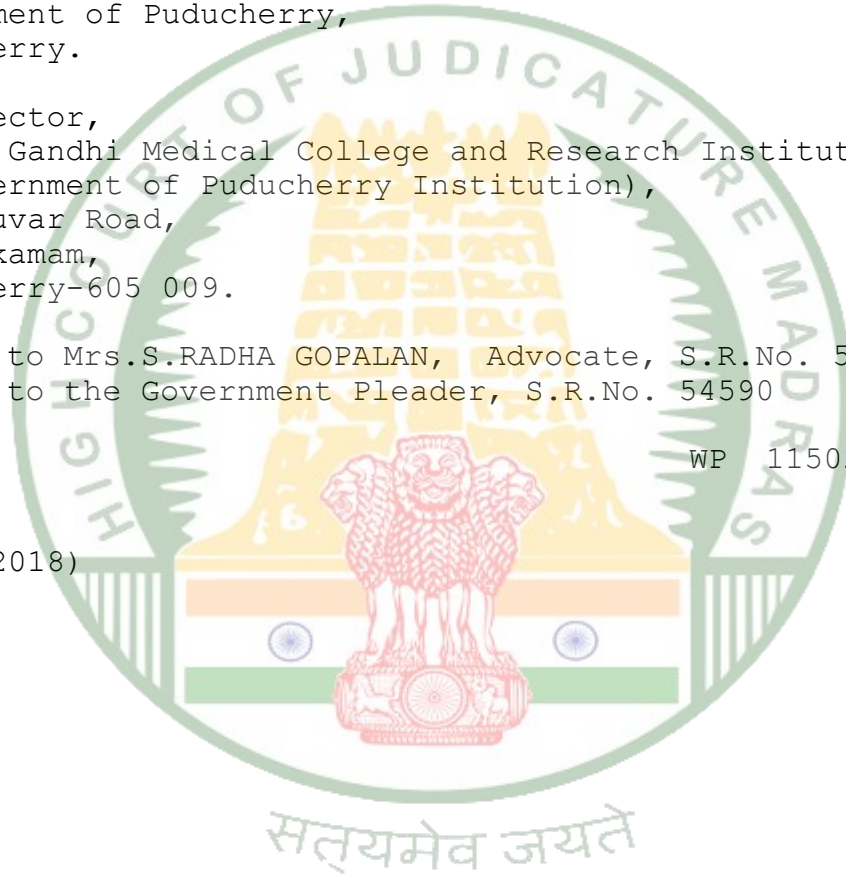
To

- 1.The Chief Secretary,
Union of India,
Union Territory of Puducherry,
Puducherry.
- 2.The Secretary,
Health Department,
Government of Puducherry,
Puducherry.
- 3.The Director,
Indira Gandhi Medical College and Research Institute,
(A Government of Puducherry Institution),
Vazhoduvar Road,
Kathirkamam,
Puducherry-605 009.

+1cc to Mrs.S.RADHA GOPALAN, Advocate, S.R.No. 54514
+1cc to the Government Pleader, S.R.No. 54590

WP 11502 of 2018

SPD(CO)
TR(14/08/2018)



WEB COPY