

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.11.2017

DATE OF DECISION : 22.01.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.26870 & 23922 of 2017

Dr.S.Usha .. Petitioner in W.P.No.26870 of 2017 & Fourth respondent in W.P.No.23922 of 2017

Dr.Kumar Natarajan .. Petitioner in W.P.No.23922 of 2017 & Fourth Respondent in W.P.No.26870 of 2017

-vs-

1. State of Tamil Nadu
rep.by its Principal Secretary/Secretary to Government
Health and Family Welfare Department
Fort St. George
Chennai 600 009
2. The Directorate of Medical Education
Kilpauk
Chennai 600 010
3. The Dean
Coimbatore Medical College
Coimbatore 641 018

.. Respondents 1 to 3 in both the Writ Petitions

W.P.No.26870 of 2017 is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the impugned proceeding dated 4.10.2017 in Office Order No.100/E1/2017 issued by the third respondent and quash the same and consequently direct the respondents 1 to 3 to appoint the petitioner as Professor and Head of the Department, Coimbatore Medical College, Coimbatore.

W.P.No.23922 of 2017 is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records in respect of the impugned order in Office Order No.100/E1/2017 dated 16.08.2017 passed by the third respondent and quash the same based on Government Letter No.31929/A1/2016-3 dated 16.08.2017

issued by the first respondent and consequently direct the respondents to permit the petitioner herein who is the senior most Medical Officer with CML No.4470/2005, to continue as the Head of Department of General Medicine in Coimbatore Medical College.

For Petitioners :: Mr.S.Gomathinayagam
Senior Counsel for
M/s G.Sudha
G.Harihara Arun Somasankar
for the petitioner
in W.P.No.26870 of 2017 &
for R4 in W.P.No.23922 of 2017
Ms.R.Maheswari
for the petitioner
in W.P.No.23922 of 2017
& for R4 in
W.P.No.26870 of 2017

For Respondents :: Mr.K.Venkataramani
Additional Advocate General
assisted by
Mr.V.Jayaprakash Narayanan
Special Government Pleader
for R1 to 3

ORDER

Writ Petition Nos.26870 & 23922 of 2017 have been filed by Dr.S.Usha (CML Seniority No.5245) and Dr.Kumar Natarajan (CML Seniority No.4470) respectively, for being posted as the Head of the Department in the Coimbatore Medical College, Coimbatore. Hence, they are taken up together and disposed of by this common order. For convenience, the contesting writ petitioners are referred to as arrayed in the writ petitions.

2. Dr.S.Usha, the petitioner in W.P.No.26870 of 2017, has challenged the impugned cancellation of office order, dated 4.10.2017 issued by the third respondent holding that Dr.Kumar Natarajan, being the senior most Professor as per the CML seniority, on the basis of the G.O.Ms.No.226, Health and Family Welfare (A1) Department dated 10.10.2013, to continue as the Head of the Department of General Medicine, Coimbatore Medical College, Coimbatore, to quash the same with a consequential direction to the respondents 1 to 3 to appoint her as the Professor and Head of the Department, Coimbatore Medical College.

2.1. Dr.Kumar Natarajan, the petitioner in W.P.No.23922 of 2017, has challenged the impugned order dated 16.8.2017 issued by the third respondent posting Dr.S.Usha as the Head of the Department of General Medicine in Coimbatore Medical College, Coimbatore, on the basis of the Government Letter No.31929/A1/2016-3 dated 16.8.2017 issued by the first respondent, to quash the same with a consequential direction to the respondents 1 to 3 to permit him, being the senior most Medical Officer with CML No.4470/2005, to continue as the Head of Department of General Medicine in Coimbatore Medical College.

3. Mr.S.Gomathinayagam, learned senior counsel appearing for the petitioner-Dr.S.Usha in W.P.No.26870 of 2017 contended that the petitioner was selected to the post of Assistant Surgeon by the Tamil Nadu Public Service Commission and was appointed as a Civil Assistant Surgeon in the year 1989. Thereafter, she completed the Post Graduate Course in M.D.General Medicine in the year 1998 and also acquired the Post Graduate Degree in February, 1999 and became the Assistant Professor of Medicine in the Coimbatore Medical College. In February, 2004 she was again appointed as Associate Professor of Medicine and after four years, in February, 2008, she was promoted as Professor of Medicine, as per the order of refitment on 14.9.2010 with effect from 3.2.2008. Having got the refitment, as per the norms prescribed by the Medical Council of India, it was further stated that she became eligible for being posted as the Head of the Department in Medicine. Adding further, it was stated that although as per the order of appointment, Dr.S.Usha was appointed as Professor from 3.2.2008, since one Dr.S.Veerakesari was holding the post of Head of the Department at the relevant point of time, she was not considered for such post. However, after the retirement of the said Dr.S.Veerakesari on 31.12.2011, Dr.S.Usha was anticipating the order posting her as Professor and Head of the Department, because she was the only Professor available in the Medical Department as on 31.12.2011, and as such from 1.1.2012, she was also permitted to hold the post of Head of the Department. But, all of a sudden, an Office Order No.2/E1/2012 dated 9.1.2012 was issued by the Dean of Coimbatore Medical College, the third respondent herein appointing Dr.Isaac Christian Moses, M.D., G.M., as Professor and Head of the Department in General Medicine in the Coimbatore Medical College. Challenging the said order, Dr.S.Usha filed W.P.No.2151 of 2012.

4. Continuing his arguments, the learned senior counsel submitted that when the order dated 14.9.2010 appointing Dr.S.Usha in the cadre of Professor was issued stating that her appointment was made retrospectively from 3.2.2008, as on 31.12.2011, when the post of Head of the Department fell vacant on account of the retirement of Dr.S.Veerakesari, Dr.S.Usha,

being the only Professor available in the Department of Medical Science, should have been posted as the Head of the Department. But without considering her claim for being posted as the Head of the Department, one Dr.Isaac Christian Moses was erroneously given the posting without any valid reason, for, although Dr.Isaac Christian Moses was senior and eligible for promotion as Associate Professor during 2006, he relinquished his promotion, hence, as per Rule 47(2) of the Tamil Nadu State and Subordinate Service Rules, such relinquishment made by Dr.Isaac Christian Moses would be operative for a period of three years. Therefore, Dr.S.Usha was rightly promoted as Associate Professor during his relinquishment period. Hence, after appointing Dr.S.Usha to the post of Professor and Head of the Department, the third respondent cannot pass the order impugned herein cancelling the said appointment.

5. Arguing further, the learned senior counsel submitted that the post of Head of the Department is not a promotional post among the seniors. As per G.O.Ms.No.226, Health and Family Welfare (A1) Department dated 10.10.2013, the senior most Medical Officer is to be designated as the Head of the Department. When the said Government Order says that the senior most medical officer as per CML seniority in the concerned speciality of the medical college, shall be considered for holding the post of Head of the Department, in the present case, as Dr.Isaac Christian Moses relinquished his promotion, as on that date, the petitioner cannot be disturbed, once she was posted as the Head of the Department. Since Dr.Isaac Christian Moses was appointed as the Professor and Head of the Department of Coimbatore Medical College by the order dated 9.1.2012 passed by the Dean of Coimbatore Medical College overlooking Dr.S.Usha, this was questioned successfully on the ground that the petitioner being the senior most Professor should be appointed to the post of Professor and Head of the Department. This Court, by order dated 20.7.2016, allowing the Writ Petition No.2151 of 2012 holding that the petitioner being the senior most Professor available for being designated as the Head of the Department as on 1.1.2012, set aside the order dated 9.1.2012. When the said order has been accepted by the Department, they cannot promote Dr.Kumar Natarajan to the post of Professor and Head of the Department, failing which, the respondents would commit contempt, as per the order dated 20.7.2016 passed in W.P.No.2151 of 2012. Even the earlier office order dated 16.8.2017 requesting Dr.Kumar Natarajan to handover the charges to Dr.S.Usha clearly shows that his client is the senior most person. Having issued the order dated 16.8.2017 directing Dr.Kumar Natarajan to handover the charge to the petitioner-Dr.S.Usha, once again the third respondent cannot cancel the office order dated 16.8.2017 on the ground that the petitioner had not taken over charge from Dr.Kumar Natarajan. Therefore,

the impugned order is not only misconceived, but also against the order dated 20.7.2016 passed in W.P.No.2151 of 2012.

5. Continuing further, the learned senior counsel submitted that aggrieved by the order dated 16.8.2017 passed by the third respondent, Dr.Kumar Natarajan has filed W.P.No.23922 of 2017 on the ground that the order dated 16.8.2017 was issued behind his back and also obtained an order of stay on 6.9.2017. Aggrieved by the order of stay, W.A.No.1269 of 2017 was filed by the petitioner and the same was also disposed of on 10.10.2017. Assailing the maintainability of W.P.No.23922 of 2017 filed by Dr.Kumar Natarajan on the ground that it is hit by the principle of res judicata, he pleaded that the impugned order dated 4.10.2017 passed by the third respondent shall be liable to be set aside. Again alleging fraud on the part of the Dean of Coimbatore Medical College for passing the impugned order of cancellation dated 4.10.2017, the learned senior counsel further submitted that by virtue of the order dated 20.7.2016 passed in W.P.No.2151 of 2012 declaring the petitioner as the senior most person eligible to be posted as the Head of the Department from 1.1.2012, he emphatically contended that the impugned order dated 4.10.2017 passed by the third respondent is not valid in law, inasmuch as the petitioner is the senior most Professor and she was re-designated as the Professor of Medicine by virtue of her teaching experience in the concerned speciality from 3.2.2008, whereas Dr.Kumar Natarajan was designated as Professor of Medicine by virtue of his teaching experience in the concerned speciality as per the MCI norms only with effect from 14.2.2013, that clearly shows that the petitioner is senior than Dr.Kumar Natarajan. On this score also, it is contended that the W.P.No.23922 of 2017 filed by Dr.Kumar Natarajan is not maintainable on the principle of res judicata, because the issue was already decided in the order dated 20.7.2016 passed in W.P.No.2151 of 2012, which also became final, as neither an appeal nor review was filed against the said order, therefore, the same is binding on Dr.Kumar Natarajan.

6. Going to the CML seniority position of Dr.S.Usha and Dr.Kumar Natarajan, although Dr.Kumar Natarajan is having CML Seniority No.4470 and Dr.S.Usha is having CML Seniority No.5245, by virtue of G.O.Ms.No.226, Health and Family Welfare (A1) Department dated 10.10.2013, the Government has taken a decision that the senior most Medical Officer as per the CML seniority in the concerned speciality of the medical college shall be considered for the Headship/Head of the Department. Therefore, the petitioner alone is the senior most person, because she became Professor of Medicine on 3.2.2008, whereas Dr.Kumar Natarajan became Professor of Medicine only on 14.2.2013 in the Coimbatore Medical College. Finally, referring to category 21A dealing with Professors in the Tamil Nadu Medical Service, he

has argued that to become a Professor, the Medical Officer should have possessed the teaching experience for a period of not less than four years as Associate Professor or in super-speciality either in clinical or non-clinical side.

7. Per contra, Ms.R.Maheswari, learned counsel for the petitioner-Dr.Kumar Natarajan in W.P.No.23922 of 2017 submitted that the petitioner was selected by the Tamil Nadu Public Service Commission for the post of Civil Assistant Surgeon under the Primary Health Centre side in D.Kasipalayam village, Erode District on 6.2.89. After serving in the rural side for a period of three years under the Director of Public Health, he acquired the CML seniority No.4470 of 2005. Again he served in the ESI Hospital, Coimbatore for four years and finally he has been serving in the Coimbatore Medical College from 14.2.2013. He had also attended several national seminars, workshops and training in medicine and besides he has also presented several papers in many seminars and conferences. In the meanwhile, the petitioner also served as Assistant Professor of Medicine from 10.5.99 to 19.8.99. Again from 24.5.2004 to 18.10.2004 and also from 19.10.2004 to 13.2.2007. Besides, as Senior Assistant Professor of Medicine, he served from 14.2.2007 to 13.2.2009 and became Associate Professor on 14.2.2009 and served till 13.2.2013. Later on, he became Professor of Medicine on 14.2.2013. When Dr.Kumar Natarajan is placed in CML seniority No.4470 of 2005 and Dr.S.Usha is placed in CML Seniority No.5245, she being junior to Dr.Kumar Natarajan, allegedly claiming seniority to the post of Head of the Department, filed W.P.No.2151 of 2012 challenging the proceeding dated 9.1.2012 appointing Dr.Isaac Christian Moses as Head of the Department, to quash the same with a consequential direction to the respondents to appoint her in the place of Dr.Isaac Christian Moses as the Head of the Department. Since some medical officers were claiming seniority as per the panel seniority in spite of the factor that the Head of the Department was not a promotional post, the first respondent issued G.O.Ms.No.226 dated 10.10.2013 clarifying that the senior most medical officer as per the CML seniority in the concerned speciality of the medical college shall be considered for Headship/Head of the Department. The Department also, while considering the medical officers from the CML seniority list, posted them as Professor and Head of the Department. While following the CML seniority list, Dr.N.Sundar, M.D., the then Professor of Medicine with CML seniority No.3556 became the Head of the Department and held the post till his retirement on 30.6.2014. Thereafter, Dr.Isaac Christian Moses, M.D. Professor with CML seniority No.3643 was made as the Head of the Department of Medicine. Pursuant to the G.O.Ms.No.226 dated 10.10.2013, the third respondent issued the proceeding dated 30.4.2014 in reference No.2313/E1/14 to the second respondent only to remove any ambiguity. Only in accordance with the

proceedings of the third respondent to the second respondent dated 30.4.2014, after the retirement of Dr.N.Sundar, M.D., the petitioner-Dr.Kumar Natarajan was appointed as the Head of the Department, as he is next in line with CML Seniority No.4470, since Dr.Isaac Christian Moses with CML Seniority No.3643 relinquished his promotion. Therefore, when the Department has been consistently following the CML seniority for placement as the Head of the Department from the case of Dr.N.Sundar, M.D., who held the post of Professor and Head of the Department with CML Seniority No.3556 till 30.6.2014, when Dr.Kumar Natarajan, M.D., with CML Seniority No.4470 is next in line, as Dr.C.Manoharan, M.D., with CML Seniority No.4681 had retired from service, Dr.S.Usha, M.D., with CML Seniority No.5245, cannot make any attempt to overreach the senior most person Dr.Kumar Natarajan to be posted as the Head of the Department. Concealing these facts, Dr.S.Usha came to this Court with W.P.No.2151 of 2012 challenging the order dated 9.1.2012 made in Office Order No.2/E1/2012, to quash the same without impleading Dr.Kumar Natarajan, being senior to Dr.S.Usha in the CML seniority list and other concerned persons, as she had impleaded only Dr.Isaac Christian Moses with CML Seniority No.3643 as a party respondent, having referred to the relinquishment made by Dr.Isaac Christian Moses, without even impleading Dr.Kumar Natarajan as a party respondent, has wrongly obtained an order, as though she was the senior most Professor available for being designated as the Head of the Department as on 1.1.2012.

8. Again it was submitted that her case of assertion before this Court was that she became Professor on 3.2.2008 and since one Mr.S.Veerakesari was holding the post of Head of the Department at the relevant point of time, she was not considered for such post. However, when the said Dr.S.Veerakesari retired from service on 31.12.2011, she was overlooked to the post of Head of the Department, as Dr.Isaac Christian Moses was appointed. The case against Dr.Isaac Christian Moses claimed by Dr.S.Usha in the W.P.No.2151 of 2012 was that Dr.Isaac Christian Moses, although being senior in the CML seniority list than Dr.S.Usha and Dr.Kumar Natarajan, had relinquished his promotion for a period of three years. Therefore, as per Rule 47(2) of the Tamil Nadu State and Subordinate Service Rules, such relinquishment made by him would be operative for a period of three years, meaning thereby that Dr.Isaac Christian Moses can claim his promotion only in the year 2009, therefore, on the retirement of Dr.S.Veerakesari on 31.12.2011, Dr.S.Usha became entitled to hold the post of Head of the Department from 1.1.2012. The order dated 20.7.2016 passed by this Court in W.P.No.2151 of 2012 shows that the post of Head of the Department fell vacant on 1.1.2012 on the retirement of Dr.S.Veerakesari, who was holding the post till 31.12.2011. Since Dr.S.Usha was not acting as Head of the Department from

1.1.2012, she claimed that she was appointed to the post of Professor by order dated 14.9.2010 retrospectively from 3.2.2008, hence, from 3.2.2008, she was holding the post of Professor and therefore she was the senior most person available to be designated as Head of the Department from 1.1.2012. When these facts were brought to the notice of this Court by Dr.Kumar Natarajan by filing W.P.No.23922 of 2017, while entertaining the said writ petition, this Court, by order dated 6.9.2017, has granted an order of stay of the impugned order dated 16.8.2017 in relieving Dr.Kumar Natarajan from the post of Head of the Department and posting Dr.S.Usha as the Head of the Department. Pursuant to the aforesaid order passed by this Court, the order dated 4.10.2017 impugned in W.P.No.26870 of 2017 came to be issued by the third respondent holding that Dr.Kumar Natarajan, being the senior most medical officer as per CML seniority, had taken over as the Head of the Department of the General Medicine from Dr.N.Sundar, who attained the age of superannuation on the afternoon of 30.06.2014, making it clear that Dr.S.Usha has not taken over charge from Dr.Kumar Natarajan pursuant to the order dated 16.8.2017. Therefore, no fault can be found with the impugned order, as Dr.Kumar Natarajan is admittedly senior to Dr.S.Usha in the CML seniority, she pleaded.

9. Detailed counter affidavits have been filed by the respondents 1 to 3. The learned Additional Advocate General for the respondents, relying upon the counter affidavits, submitted that Dr.Kumar Natarajan was appointed as Assistant Surgeon in the Government Primary Health Centre, D.Kasipalayam on 6.2.89 and Dr.S.Usha was appointed as Assistant Surgeon in the Government Primary Health Centre, Perilavanpatti on 5.6.89. As service candidates, Dr.Kumar Natarajan had passed the Post Graduate Degree in Medicine during March, 1993 and Dr.S.Usha had passed the Post Graduate Degree in Medicine during September, 1998 and after serving in various capacities, they have been working as Professors of Medicine in the Coimbatore Medical College from 3.2.2008 and 14.2.2013 respectively. After the Government issued G.O.Ms.No.226, Health and Family Welfare Department dated 10.10.2013 directing that the senior most Medical Officer as per CML seniority in the concerned speciality of the medical college shall be considered for Headship/Head of the Department subject to the condition that he/she should not have lost his seniority as a result of relinquishment of right of promotion or as a result of any punishment imposed on him/her, Dr.S.Usha has no right to claim the post of Head of the Department. However, based on the representation given by Dr.S.Usha to post her as the Head of the Department, pursuant to the order passed by this Court on 20.7.2016 in W.P.No.2151 of 2012, the third respondent has issued the order dated 16.8.2017 posting Dr.S.Usha as the Head of the Department. The learned Additional Advocate General further submitted that the date of

promotion of an incumbent as Professor is not the criteria for being posted as the Head of the Department, as the CML seniority alone can be taken into consideration as per the existing rules in force. Based on the CML seniority, Dr.Kumar Natarajan deserves to be posted as the Head of the Department in Coimbatore Medical College, Coimbatore and he is also holding the post.

10. Heard the learned counsel for the parties.

11. To decide the issue raised in these writ petitions, it is pertinent to refer to paragraphs 2 & 3 of the G.O.Ms.No.226, Health and Family Welfare Department dated 10.10.2013, which read thus:-

"2. The issue of identifying the senior most person in the concerned speciality of a Medical College to be designated as Head of the Department has been discussed. At present CML seniority is followed to decide the seniority for the Headship which is not a promotional post. The Medical Officer who is junior in CML number claims the Headship on the ground that he/she got promotion as Associate Professor much earlier than his/her CML senior. In short some Medical Officers claim Headship as per CML seniority and others claim Headship as per panel seniority.

3. The Government have examined the issue in detail and after examination order that the senior most Medical Officer as per CML seniority in the concerned speciality of the Medical College shall be considered for the Headship/Head of the department subject to the condition that he/she should not have lost his seniority as a result of relinquishment of right for promotion or as a result of any punishment imposed on him/her."

A cursory reading of the above clearly shows that the senior most Medical Officer as per CML seniority in the concerned speciality alone shall be considered for the Headship/Head of the Department, subject to the condition that he/she should not have lost his seniority as a result of relinquishment of right for promotion or as a result of any punishment imposed on him/her.

12. In the cases on hand, a perusal of the records reveals that Dr.Kumar Natarajan was appointed as Assistant Surgeon in the Government Primary Health Centre, D.Kasipalayam on 6.2.89

and Dr.S.Usha was appointed as Assistant Surgeon in the Government Primary Health Centre, Perilavanpatti only on 5.6.89. Thereafter, as service candidates, Dr.Kumar Natarajan had passed the Post Graduate Degree in Medicine during March, 1993 and Dr.S.Usha had passed the Post Graduate Degree in Medicine only during September, 1998.

12.1. When Dr.Kumar Natarajan happens to be senior to Dr.S.Usha in service throughout, as he has been assigned CML Seniority No.4470 and Dr.S.Usha has been assigned CML Seniority No.5245, she filed the W.P.No.2151 of 2012 before this Court challenging the order dated 9.1.2012 for posting one Dr.Isaac Christian Moses with CML Seniority No.3643 as the Head of the Department, on the ground that she was the only Professor available in the Department of Medical Science for being designated as the Head of the Department, consequent to the retirement of one Dr.S.Veerakesari on 31.12.2011, as Dr.Isaac Christian Moses relinquished his promotion, even without impleading Dr.N.Sundar with CML Seniority No.3556, Dr.Kumar Natarajan with CML Seniority No.4470, who were admittedly seniors to Dr.S.Usha in the CML seniority.

12.2. In my considered opinion, when the post of Head of the Department is not a promotional post and it is only a designated post without any monetary benefits, as per G.O.Ms.No.226 dated 10.10.2013, Dr.S.Usha has obtained an order concealing the facts from this Court that she is the senior most medical officer, behind the back of her seniors as referred to above. In the meanwhile, since a contempt petition was moved by Dr.S.Usha complaining about the non-compliance of the order dated 20.7.2016 passed in W.P.No.2151 of 2012, the third respondent has issued the order dated 16.8.2017 posting her as the Head of the Department and directing Dr.Kumar Natarajan to handover the charge to her.

12.3. When Dr.Kumar Natarajan came to know of the above order, immediately he has approached this Court with W.P.No.23922 of 2017 challenging the order dated 16.8.2017 and obtained an order of stay. Although Dr.S.Usha has been working as Professor of Medicine in the Coimbatore Medical College from 3.2.2008, she cannot make a claim contrary to the guidelines issued in G.O.Ms.No.226 dated 10.10.2013 without even impleading the affected persons as party respondents in the writ petition filed by her.

12.4. Had Dr.N.Sundar and Dr.Kumar Natarajan been impleaded as party respondents in W.P.No.2151 of 2012, they would have put forth the facts before this Court for deciding the issue, since both Dr.N.Sundar and Dr.Kumar Natarajan did not relinquish their promotion or suffered any punishment at the relevant point of

time, as that of Dr.Isaac Christian Moses, who was arrayed as fourth respondent in W.P.No.2151 of 2012. In fact, the third respondent had also issued an order on 30.6.2014 relieving Dr.N.Sundar, Professor of Medicine off his duties on the afternoon of 30.6.2014 on his attaining the age of superannuation with a request to handover the charges to Dr.Kumar Natarajan, Professor of Medicine. The said fact also has been suppressed by Dr.S.Usha before this Court.

13. In view of the above, firstly, when the Government have issued G.O.Ms.No.226 dated 10.10.2013 issuing specific guidelines with regard to the designation of the medical officer (s) as Head of the Department by following the CML seniority alone, the respondents are bound to follow the same.

13.1. Secondly, when there is no rule produced before this Court to show that a person who is holding the post of Professor with retrospective effect would automatically become senior, to be considered for the post of Headship/Head of the Department, even though he/she is junior in the CML seniority.

13.2. Thirdly, Dr.S.Usha, who is admittedly junior to Dr.Kumar Natarajan, claiming that she became Professor on 3.2.2008, cannot steal a march over her senior Dr.Kumar Natarajan.

13.3. Fourthly, there is no provision under the Tamil Nadu Medical Service Code showing that a junior Civil Surgeon, after becoming Professor before his/her senior, is entitled to steal a march over his/her senior in the CML seniority for being designated as the Head of the Department. Therefore, when the Tamil Nadu Medical Service Code governing the medical officers goes by the CML seniority from the post of Assistant Surgeon till the post of Associate Professor, even for the post of Professor and Head of the Department, the CML seniority shall be followed.

13.4. When Dr.S.Usha has also not questioned the G.O.Ms.No.226 dated 10.10.2013, she cannot claim seniority over and above her senior Dr.Kumar Natarajan, as he joined the service earlier to Dr.S.Usha and assigned CML Seniority No.4470, but Dr.S.Usha has been assigned CML Seniority No.5245. 13.5. Hence, the third respondent has rightly passed the order dated 4.10.2017, cancelling the earlier office order dated 16.8.2017, permitting Dr.Kumar Natarajan to continue as the Head of the Department of General Medicine, Coimbatore Medical College, Coimbatore.

14. For all the aforementioned reasons, Writ Petition No.26870 of 2017 filed by Dr.S.Usha stands dismissed. Consequently, W.M.P.No.28622 of 2017 is also dismissed. For the very same reasons, W.P.No.23922 of 2017 filed by Dr.Kumar Natarajan stands allowed permitting him to continue as the Head of the Department of General Medicine in Coimbatore Medical College, Coimbatore. Consequently, W.M.P.Nos.25191, 25192 & 27303 of 2017 are closed. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

ss
To

1. The Principal Secretary to Government
Health and Family Welfare Department
Fort St. George
Chennai 600 009
2. The Directorate of Medical Education
Kilpauk
Chennai 600 010
3. The Dean
Coimbatore Medical College
Coimbatore 641 018

+1cc to Mr.G.Harihara arun somasankar, Advocate, S.R.No.5224
+2ccs to Ms.R.Maheswari, Advocate, S.R.No.4636, 4637
+1cc to M/s G.Sudha, Advocate, S.R.No.5223
+1cc to the Government Pleader, S.R.No.4867, 4866

W.P.Nos.26870 & 23922 of 2017

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