



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.02.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.14063 of 2017

and

W.M.P.(MD) No.10999 of 2017

S.P.Ganesan

... Petitioner

Vs.

1.The Director of Medical Education,
Directorate of Medical Education,
162, EVR Periyar Salai,
Kilpauk, Chennai - 60.

2.The Dean,
Office of the Dean,
Kanyakumari Government Medical
College Hospital,
Asaripallam, Kanyakumari,
Kanyakumari District-629 201.

3.The Residential Medical Officer,
Kanyakumari Government Medical
College Hospital,
Asaripallam, Kanyakumari,
Kanyakumari District - 629 201.

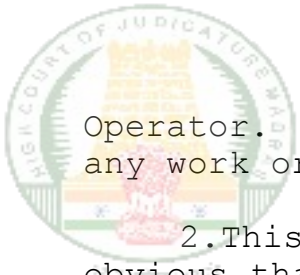
... Respondents

Prayer: Writ petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondents to accept the petitioner's Medical Certificate and to allow to join the duty and to give the duty of lift operator and to disburse the petitioner's salary arrears for 218 days medical leave.

For petitioner : Mr.S.P.Ganesan, Party in Person
For Respondents : Mrs.S.Srimathy, Spl. G.P.

ORDER

The petitioner was appointed as the Hospital Worker on 06.11.2007 in the second respondent hospital. The petitioner got appointed under the physically handicapped quota. This Court saw the petitioner in person. It is obvious that he is lame and crippled. The petitioner's grievance is that he has been asked to do works in the hospital ward, which he is not in a position to do. In fact, originally his right leg was alone handicapped. Now, his left leg was also broken. The petitioner was given duty as Lift



Operator. For the last 7 months, the petitioner has not been given any work or salary. Therefore, this writ petition came to be filed.

2. This Court went through the materials on record. It is obvious that the petitioner has been given a work which he is not in a position to do. When earlier the writ petitioner was doing the duty of Lift Operator, he need not have been disturbed and allotted with ward duties. What governs the mind of the Court is that the writ petitioner is hardly having 9 more months of service. He is already in his 60th year. Therefore, in the interest of justice, this Court would direct the respondents 2 and 3 to permit the petitioner to resume his duties as Lift Operator forthwith. Since the writ petitioner was not given employment even though he was willing to serve, obviously, he is to be paid the salary arrears also. The said salary arrears will also be disbursed forthwith without any delay. Principle of no work, no pay can be applied if the petitioner is not willing to work. In this case, the petitioner is willing to work. Representation dated 07.06.2017 will definitely shed considerable light on the present situation. This Court applies the principle of probability and comes to the conclusion that the petitioner's version could be right. If the petitioner's version was incorrect, obviously his representation dated 07.06.2017 would have been met with an order of rejection. Therefore, this Court has to necessarily allow the writ petition.

3. Accordingly, this writ petition is allowed. The respondents shall permit the petitioner to resume duty as Lift Operator and permit him to serve in that capacity for the remaining period of his service which will come to hardly 9 more months. The salary arrears of 218 days shall also be disbursed forthwith without any delay. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Director of Medical Education, Directorate of Medical Education, 162, EVR Periyar Salai, Kilpauk, Chennai - 60.
 2. The Dean, Office of the Dean, Kanyakumari Government Medical College Hospital, Asaripallam, Kanyakumari, Kanyakumari District-629 201.
 3. The Residential Medical Officer, Kanyakumari Government Medical College Hospital, Asaripallam, Kanyakumari, Kanyakumari District - 629 201.
- +1CC to Mr.S.P.Ganesan, Party-in-person.

W.P. (MD) No.14063 of 2017

and

W.M.P. (MD) No.10999 of 2017

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