

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.3992 of 2019

and

W.M.P.Nos.4449 & 4451 of 2019

Mrs.S.Geetha

... Petitioner

Vs.

1. The Secretary
Health and Family Welfare Department
Fort St. George,
Chennai - 09.
2. The Director,
Medical and Rural Health Services,
D.M.S. Campus,
Teynampet,
Chennai - 600 006.
3. The Director
Director of Medical Education,
Poonnamallee high Road, Kilpauk,
Chennai - 10.

.... Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari, to call for the records in connection with the proceedings in Na.Ka.71315/CHEB2/2/2018/ dated 28.01.2019, of second respondent and quash the same.

For Petitioner : M/s.R.K.Gandhi

For Respondents : M/s.P.Rajalakshmi
Additional Government Pleader

O R D E R

The order passed by the Director, Medical and Rural Health Services in proceedings dated 28.01.2019 is under challenge in the present writ petition.

2. The impugned order states that the diversion order passed by the competent authorities in the interest of Administration was cancelled as per the annexure enclosed with the order. Further, an instruction was issued to all the Joint Director of Health services that all transfer and posting orders should be passed by the Joint Director of Health Services with the prior approval of the Director. Such an instruction is provided in order to prevent the issuance of transfer orders on extraneous considerations and on other basis. The Director, that to impose such a condition in the interest of Administration and to prevent abuse of administrative power by the Subordinate officials. Thus, the said instructions given by the Director can never be construed as an illegality.

3. The learned counsel for the writ petitioner states that the petitioner is now working as Staff Nurse at Vedasanthur Government Hospital, Dindigul District on Diversion duty. The original posting order of the writ petitioner is at Namakkal District Government General Hospital at Namakkal. She was permitted to work at Dindigul District only on Diversion duty. Now, through the impugned order dated 28.01.2019, diversion orders issued are cancelled in entirety. Thus, now, the writ petitioner has to go to Namakkal, which would affect her normal family life. The writ petitioner is the native of Dindigul District and therefore, she must be posted in and around Dindigul District.

4. The learned counsel for the petitioner states that already an order of transfer was issued by the Joint Director of Health Services pursuant to the orders passed in W.P.No.13253 of 2016 to consider the representation of the writ petitioner. However, the said transfer and posting order dated 07.04.2017 is yet to be served on the writ petitioner officially.

5. Under these circumstances, the writ petitioner may be permitted to serve at Government Urban Primary Health Centre, Kallimandhayam, Dindugul District as per the unserved transfer order dated 07.04.2017.

6. Transfer is an incidental to service, more so, a condition of service. Administrative transfers are issued in the interest of Administration and to ensure that the Public Services are being continued uninterruptedly by the State executives. The Transfer order not served on the petitioner would not provide any cause for the petitioner to seek transfer and posting to the place wherein, she is posted as per the unserved transfer order. Unserved transfer order will not provide a right on the writ petitioner to file a writ petition.

7. This apart, even the cancellation of transfer order will not provide any right on the employee to claim a particular post or place as a choice. A Government Public servant cannot choose a place or post as a matter of choice and it is the administrative prerogative of the competent authorities to post an employee in an appropriate place for effective public administration. However, certain individual grievances, if any raised by the employees shall be considered by the competent authorities, while effecting transfers. However, a uniformity and consistency must be followed in the matter of transfer and postings and all these employees in nor to avoid frustration in the minds of these employees. Therefore, the authorities competent should keep in mind that a decision in the matter of transfer and postings to be taken in an unbiased manner and by providing equal opportunity to all the employees concerned in the manner known to law.

8. Under these circumstances, if at all, the writ petitioner is having any personal grievances, she is at liberty to approach the competent authority for the purpose of redressal of his grievances. However, based on an unserved transfer and posting order, this Court cannot issue any direction as such sought for in the present writ petition.

9. With these observations, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

Kak/kmm

To

1. The Secretary
Health and Family Welfare Department
Fort St. George,
Chennai - 09.

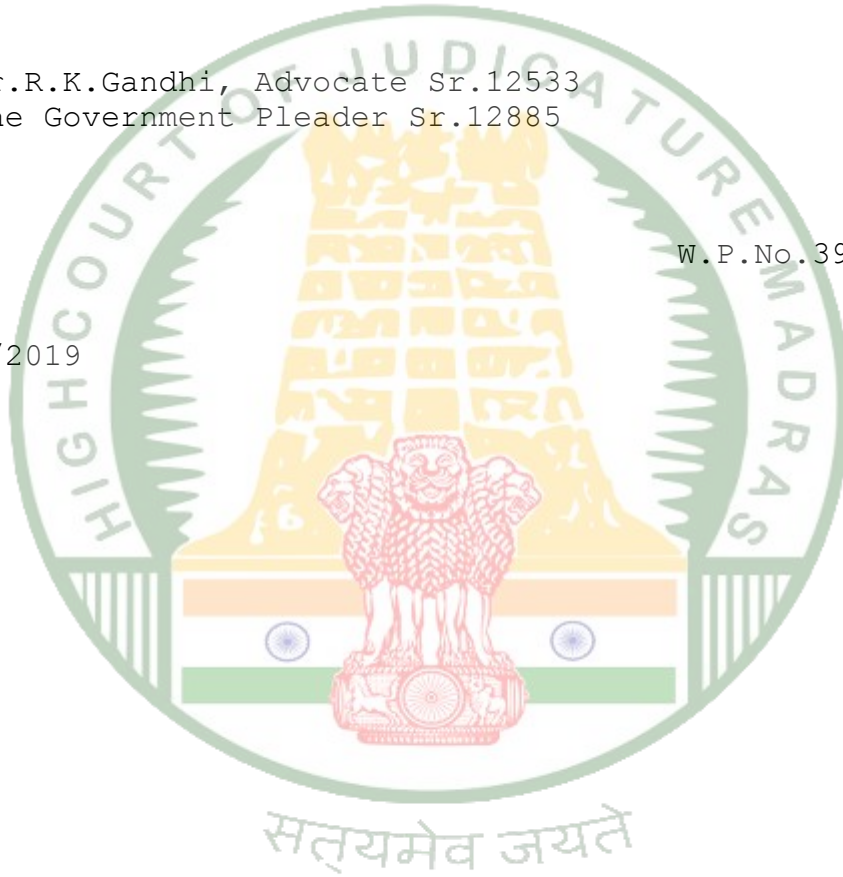
2. The Director,
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3. The Director
Director of Medical Education,
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Chennai - 10.

+1cc to Mr.R.K.Gandhi, Advocate Sr.12533
+1cc to the Government Pleader Sr.12885

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