

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2019

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THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.8509 of 2019

Dr.V.Kavitha

.. Petitioner

Vs.

1. State of Tamil Nadu
rep. by its Secretary,
Department of Health,
Fort St. George,
Chennai-600 009.

2. The Director of Medical Education,
Kilpauk, Chennai-600 010.

3. The Secretary,
Selection Committee, P.G. Degree/
Diploma Courses,
No.162, Thanthai Periyar EVR High Road,
Kilpauk, Chennai-600 010.

.. Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents 2 and 3 to award incentive marks for her services at GPHC, Mugalivakkam, from 18.08.2010 to 29.06.2014 in addition to her earlier services at different rural areas for admission to P.G. Degrees/Diploma Courses for the academic year 2019-2010.

For Petitioner : Mr.A.Muthukumar

For Respondents: Mrs.Narmadha Sampath,
Additional Advocate General
assisted by Mr.V.Kadhirvelu,
Special Govt. Pleader (Hr. Edn.)
for RR 1 and 2

Mr.Abdul Saleem for R 3

O R D E R

With the consent of the learned counsel on either side, this writ petition is taken up for final hearing.

2. The petitioner, who was the Assistant Surgeon in the Government PHC, Mugalivakkam, from 17.08.2010 to 29.06.2014 seeks a direction to the respondents to award incentive marks claiming that the said PHC was located in a rural area, when she served there.

3. The petitioner claimed that while she was serving in the PHC, Mugalivakkam, she was asked to work at Ellichur, Kundrathur, Mangadu and Padappai villages also, which are all only rural areas. The Mugalivakkam PHC was handed over to the Greater Chennai Corporation only on 20.03.2014 and till such time, it was a rural area and hence, she is entitled to receive incentive marks. The present G.O.Ms.No.86, Health and Family Welfare Department, dated 06.03.2019, does not include the said area for award of incentive marks. But the same could be denied to the Doctors, who have joined in the said PHC after 20.03.2014 and hence, she cannot be denied her lawful right to get incentive marks.

4. Learned Additional Advocate General, on instructions, submitted that the PHC, Mugalivakkam, is specifically included in the Annexure IV to G.O.Ms.No.75, dated 09.03.2018 and Annexure V to the present G.O.Ms.No.86, dated 06.03.2019, as it comes within the Municipality/Corporation limits and therefore, the petitioner is not entitled to the incentive marks.

5. Though the learned counsel for the petitioner submitted that when the petitioner served in the PHC, Mugalivakkam, it was only a rural area, admittedly, it is included in the Annexure IV to the erstwhile G.O.Ms.No.75, dated 09.03.2018 and Annexure V to the present G.O.Ms.No.86, dated 06.03.2019, as per which, it comes under Municipality/Corporation limits and thereby excluded from the benefit of extending the incentive marks to the Doctors served there. Hence, the communication of the Deputy Director of Health Services, Kancheepuram Health Unit to the effect that the said PHC was handed over to the Greater Chennai Corporation on 20.03.2014 does not render any assistance to the claim of the petitioner.

6. The amendment to the Regulation 9(IV) of the P.G. Medical Regulation 2000 itself came into force only with effect from 21.12.2010. Even otherwise, the petitioner, having joined the services in 2010, had sufficient opportunity of pursuing P.G. Medical Course in the subsequent years till such time the

Mugalivakkam PHC was added to the Greater Chennai Corporation limits in 2014. Having missed the bus, the petitioner cannot ask for the award of incentive marks retrospectively after five years of the said area added to the Corporation and included in the Annexure V of the impugned Government Order.

7. It is also claimed by the petitioner that she was asked to work at Ellichur, Kundrathur, Mangadu and Padappai villages, which are even now classified as rural areas. However, there is no material placed before this Court to substantiate the said claim. Hence, the said claim of the petitioner cannot be given any weightage.

8. For the reasons stated supra, this writ petition fails and the same is dismissed. There will be no order as to costs.

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Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Principal Secretary,
Health and Family Welfare Department,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai-600 009.
2. The Director of Medical Education,
Kilpauk, Chennai-600 010.
3. The Secretary,
Selection Committee, P.G. Degree/
Diploma Courses,
No.162, Thanthai Periyar EVR High Road,
Kilpauk, Chennai-600 010.

+1cc to Mr.A.Muthukumar,Advocate, SR.No. 28947
+1cc to Mr.V.P.Raman, Advocate, SR.No. 28964
+1cc to the Govt.Pleader, vide, SR.No.29812

W.P.No.8509 of 2019

Kak(28/03/2019)