

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.A.No.1863 of 2019

A.CHANDRA

... Appellant

Vs

- 1 SECRETARY GOVERNMENT
HEALTH AND FAMILY WELFARE (A-1) DEPARTMENT
SECRETARIAT CH-09.
- 2 DIRECTOR OF MEDICAL EDUCATION
(DME) KILPAUK CH-10. ... Respondents

Writ Appeal filed to set aside the order made in WP
no.7478/2019 dated 25.04.2019.

Prayer in W.P.No.7478 of 2019:

Writ Petition filed under the Article 226 of the
Constitution of India praying to issue a Writ of Declaration
declaring the counseling for the post of Associate Professor
scheduled on 28.02.2019 and the consequent Government Order in
G.O.(2D).No. 56 Health and Family Welfare(A1) Department dated
08.03.2019 passed by the 1st respondent herein as illegal and
void.

For appellant : Mr.Mohan
for Ms.Vijayalakshmi

For Respondents : Mrs.Srijeyanthi, Spl.G.P.

J U D G M E N T

The appellant appeared for counselling for transfer. The
counselling was held on 28 February 2019. The appellant was not
given transfer to Chennai. However, another candidate,
Dr.Shanthi Malar, Associate Professor, Government Villupuram
Medical College, Vilupuram, who was having less service at the

station, was transferred to Madras Medical College, Chennai. The Writ Petition filed by the appellant was dismissed by the learned single Judge.

2. The learned counsel for the appellant by placing reliance on the Government Orders and the transfer counselling proceedings, demonstrated before us that the application of the appellant was rejected without any valid reason and another person who was not eligible as per the circular, was transferred to Chennai. We therefore, summoned the Director of Medical Education, Chennai.

3. The Director of Medical Education, was not in a position to demonstrate before us the reason for considering the case of Dr. Shanthi Malar for transfer to Chennai.

4. The Director of Medical Education filed an affidavit thereafter before this Court, indicating that immediately after giving promotion to Dr. Ratna Manju Shree, Associate Professor of Physiology, Government Medical College, Chennai, the appellant would be transferred to Chennai.

5. Since the affidavit filed by the Director of Medical Science was conditional, and there was no clear picture as to when the promotion would be given and the appellant would be accommodated at Chennai, we directed the Principal Secretary to Government, Health and Family Welfare (A-1) Department, to file an affidavit. Accordingly, Secretary to Government, Health and Family Welfare Department has an affidavit dated 25 July 2019, indicating that proposal was received from the Director of Medical Education to promote temporarily Dr. Ratna Manju Shree, Associate Professor of Physiology, as Professor in Government Tiruvannamalai Medical College, Tiruvannamalai. The Secretary has further stated that within a period of two months, promotion would be given and the appellant would be posted at Chennai in the consequential vacancy. The affidavit dated 25 July 2019 is taken on record.

6. The Director of Medical Education while denying the application of the appellant for transfer, violated the circular dated 27 February 2019, which provides that Medical Officers whose names are not found in the list are also at liberty to participate in the transfer counselling. However, they would be permitted only after the transfer counselling of the named medical officers is over. Even though the name of Mrs. Shanthi Malar was not included in the list, the fact remains that she was given transfer. It was only on account of this, the Director of Medical Education agreed to consider the case of the appellant, immediately after giving promotion to Dr. Ratna Manju Shree.

7. We direct the respondents to complete the process as indicated in the affidavit filed by the Secretary to Government, Health and Family Welfare and transfer the appellant from Villupuram to Chennai. Such exercise shall be completed on or before 30.09.2019.

8. The intra court appeal is disposed of with the above direction. No costs. Consequently, C.M.P.No.12597 of 2019 is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. SECRETARY GOVERNMENT
HEALTH AND FAMILY WELFARE (A-1) DEPARTMENT
SECRETARIAT CHENNAI-09.
- 2 DIRECTOR OF MEDICAL EDUCATION
(DME) KILPAUK CHENNAI-10.

+lcc to Mrs.Vijayalakshmi Rajaratnam, Advocate Sr.63912
+lcc to the Government Pleader Sr.64216

सत्यमेव जयते

W.A.No.1863 of 2019

ks[co]
srg 13/09/2019

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