

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.22158 of 2019
and
W.M.P.No.21434 of 2019

1.Dr.K.Prakash
2.Dr.P.Bagavathiammal
3.Dr.T.Henry Prabhakaran
4.Dr.A.Shajahan
5.Dr.P.Rajeswari
6.Dr.B.Senthil Sayinathan
7.Dr.P.Deepa
8.Dr.T.Dhanasekaran
9.Dr.D.Chandramohan
10.Dr.B.Dhanaraj
11.Dr.D.M.Mohan
12.Dr.A.Arulmani

....Petitioners

Vs.

1.The Government of Tamil Nadu
Rep. by its Secretary to Government
Health and Family Welfare Department
Fort St. George
Chennai 600 009

2.The Government of Tamil Nadu
Rep. by its Secretary to Government
Department of Transport
Fort St. George
Chennai 600 009

3.The Director
Institute of Road Transport
100 Feet Road
Tharamani
Chennai 600 113

4.The Dean
IRT-Perundurai Medical College and Hospital
Perundurai Sanatorium
Perundurai 638 053
Erode District

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents herein to consider the representations made by the petitioners dated 26.09.2016 and 24.08.2018 by re-examining the issue of leave on loss of pay granted to the petitioners herein to pursue their higher studies, as service period and sanction salary during the leave period with all service benefits applicable for service candidates.

For Petitioners : Mr.V.P.Sengottuvel

For Respondents : Mr.R.S.Selvam, G.A for R1 & R2
Mrs.Kala Ramesh for R3 & R4

O R D E R

This petition has been filed by the petitioners to direct the respondents herein to consider the representations made by the petitioners dated 26.09.2016 and 24.08.2018 by re-examining the issue of leave on loss of pay granted to the petitioners herein to pursue their higher studies, as service period and sanction salary during the leave period with all service benefits applicable for service candidates.

2.The case of the petitioners is that the 1st respondent herein in G.O.Ms.No.1938, Health and Family Welfare Department, dated 16.07.1986 permitted to take over the Ramalingam Tuberculosis Sanatorium to start a Medical College at Perundurai, Erode. Later the 4th respondent college was created by the 2nd respondent Government of Tamil Nadu under G.O.Ms.No.871, Transport Department and consequently Government of Tamil Nadu taken over Ramalingam Tuberculosis Sanatorium at Perundurai to house the 4th respondent Medical College and Hospital. The 4th respondent college is under the administrative control of the 2nd respondent herein. The 4th respondent while issuing reliving order pursuant to the grant of leave to undergo higher studies, obtained undertaking from the candidates that the leave granted is on loss of pay only. All the petitioners herein availed leave to undergo higher studies and after completion of studies joined the 4th respondent college and till date serving in the college. When the decision of the 3rd and 4th respondent in granting leave to the faculties working under them to pursue their higher studies on loss of pay with considering them on par with Doctors working in the Government Medical Colleges and the said decision is arbitrary. The petitioners 1 to 6 filed a writ petition in W.P.No.18002 of 2009. The petitioners 1, 2 and 4 to 6 sent a representation dated 22.11.2011 to the 3rd respondent to take an early decision as mentioned in proceedings of the 4th respondent letter dated 26.12.2009 in

Ref.352/E2/IRT-PMC/2009. When the said representations were not considered, the petitioners 1, 2 and 4 to 6 on 27.03.2013 made a representation to the 2nd respondent. But none of the representations were considered by the respondents 1 and 2 herein as directed by this court in its order dated 15.10.2009 made in W.P.No.18002 of 2009. Hence this petition.

3.The learned counsel for the petitioner submitted that, it would suffice if a direction is issued to the respondents to consider the representations of the petitioner dated 26.09.2016 and 24.08.2018, within a reasonable time as fixed by this Court to re-examine the issue of leave on loss of pay granted to the petitioners to pursue their higher studies as service period and sanction salary during the leave period with all service benefits applicable for service candidates.

4.The learned counsel appearing for the 3rd respondent would submit that the IRT-Perundurai Medical College and Hospital had already been taken over by the Government and now the Government is the competent authority to take decision in this regard, accordingly, prays for appropriate orders.

5.In view of the above submissions made by the learned counsel appearing for the 3rd respondent, this court, without going into the merits of the case, is inclined to direct the petitioners to send a fresh representation to the Government, which is the competent authority to decide the issue along with the copy of this order to consider the representation dated 24.08.2018. Thereafter, the competent authority shall pass appropriate orders within a period of twelve weeks from the date of receipt of the petitioners' representation.

6.With the above directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To.

1.The Government of Tamil Nadu
Health and Family Welfare Department
Fort St. George
Chennai 600 009

2.The Government of Tamil Nadu
Department of Transport
Fort St. George
Chennai 600 009

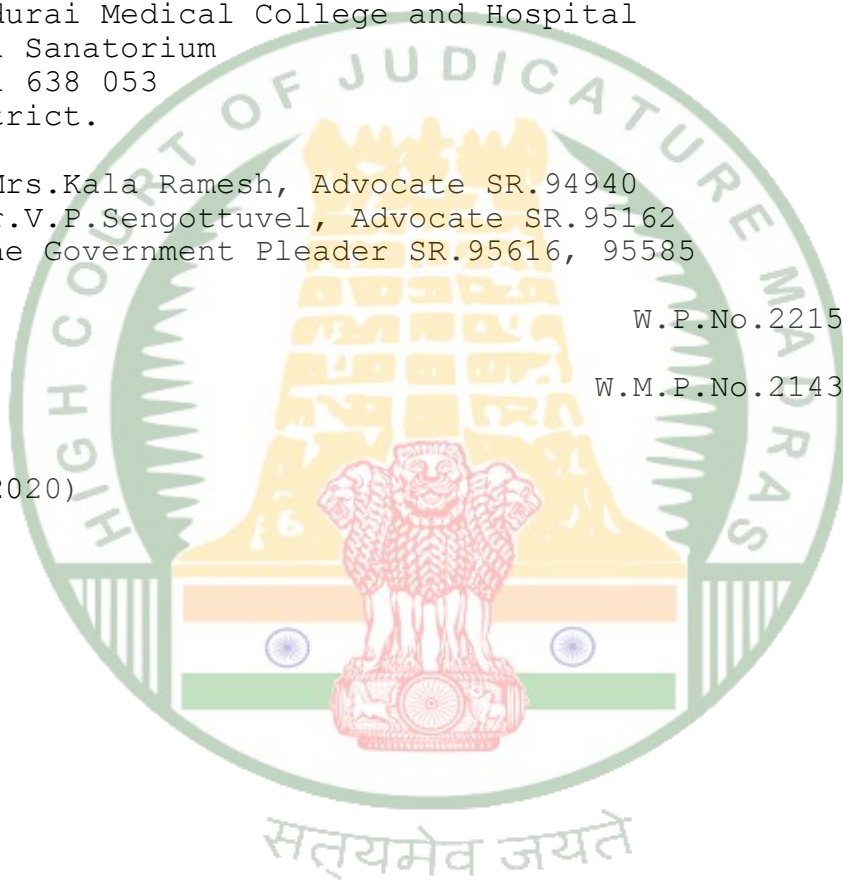
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Institute of Road Transport
100 Feet Road
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Chennai 600 113

4.The Dean
IRT-Perundurai Medical College and Hospital
Perundurai Sanatorium
Perundurai 638 053
Erode District.

+1cc to Mrs.Kala Ramesh, Advocate SR.94940
+1cc to Mr.V.P.Sengottuvel, Advocate SR.95162
+1cc to the Government Pleader SR.95616, 95585

W.P.No.22158 of 2019
and
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BR(CO)
CB(07/01/2020)



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