

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.10.2019

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.25466 of 2019

&

W.M.P.No.24991 of 2019

Indira Gandhi Medical College & Research
Institute Employees Union
(Regn.No.1822/RTU/2017),
No.7-8, Moovendhar Street, Mullai Nagar,
Orleanpet, Puducherry - 605 005.
Rep by its Secretary Mr.P.Ramaiah.

...Petitioner

..Vs..

1.The Labour Officer (Conciliation)
No.14, First Floor, Nehru Nagar,
Puducherry - 605 011.

2.The Director,
Indira Gandhi Medical College & Research
Institute, I Floor, College Block,
Vazhudavour Road, Kadirkamam,
Puducherry - 605 009.

...Respondents

Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the second respondent to forbear from altering the service conditions of the members of the petitioner Union, concerned in the industrial dispute pending before the first respondent in File No.430/LO(C)/Estt/2019 and to abide by the provisions of Section 33(1) of the industrial Disputes Act, 1947 during the pendency of the said conciliation proceedings.

For Petitioner : Mr.P.Rajendran

For Respondents : Mr.A.V.Ramalingam, AGP (Puducherry)

ORDER

The writ on hand is filed for a direction to direct the second respondent to forbear from altering the service

conditions of the members of the petitioner/union concerned in the industrial dispute pending before the first respondent in File No.430/LO(C)/Estt/2019 and to abide by the provisions of Section 33(1) of the industrial Disputes Act, 1947 during the pendency of the said conciliation proceedings.

2.The writ petitioner is the Employees Union which raised certain disputes and the matters are placed before the Conciliation Officer for enquiry. Under these circumstances, it is brought to the notice of this Court that the Division Bench of this Court has also considered the grievances of these workmen in W.A.Nos.684 to 686 of 2019 dated 30.08.2019 in the case of K.Bharathihassan Vs.The Chairman, Indira Gandhi Medical College and Research Institute. The relevant paragraphs of the judgment of the Division Bench are extracted herein;

"10. The appellants seek a direction to the Medical College to recall the order disengaging them and permit them to work as multipurpose workers. The Chief Secretary made it clear before us that henceforth employees would be taken only after issuing a notification in newspapers and notifying to the employment exchange across the State. The Medical College has also initiated process for appointments. In view of all these subsequent events, we are not in a position to direct the respondents to reengage the appellants by quashing the order challenged in the Writ Petitions. It is open to the appellants to submit applications, pursuant to the notification issued by the college. The appellants must be given age relaxation and they should also be given preference if other things being equal.

11. We are informed that on an earlier occasion, the Medical Council of India declined to grant recognition to the college for want of institutional and infrastructural facilities. The lack of manpower was also a reason for denial of recognition. The Medical College must therefore take every effort to comply with the regulations framed by the Medical Council of India for establishing a full-fledged Medical College in terms of infrastructural, institutional and manpower. In order to facilitate the functioning of the Medical College, we issue the following directions:-

(i) The Medical College must take steps gradually for filling up all the sanctioned posts on regular basis rather than making appointments on contract basis or as a stop gap arrangement;

(ii) The post of faculty members and ministerial and non ministerial must also be filled up by resorting to a transparent selection process;

(iii) While making appointments, the existing employees should be given preference if their services are satisfactory, by giving them age relaxation, and in case other thing being equal;

(iv) The selection must be through a procedure, which should be fair in all respects;

(v) The Society must advertise the recruitment in the vernacular newspapers, having wide circulation in Puducherry, Karaikkal, Mahe and Yanam. In addition to the publication in English, publication should also be made in Tamil in Puducherry and Karaikkal regions; Malayalam in Mahe; and Telugu in the region of Yanam.

(vi) The Society must ensure that only experienced and dedicated employees are engaged, in case appointments on contract basis are given to the former Government employees. The Medical College should not be a dumping yard for the retired employees, who have no social commitment. Since the Medical College must function in larger public interest, the employees must also be sensitive and they should respond to the needs of the general public. While taking the service of the retired employees, it should be ensured that age prescribed in the recruitment rule is also taken note of.

(vii) The society must conduct a service audit, taking into account the sanctioned posts and the employees on its rolls as on today both permanent, temporary and contractual. The Managing body must deliberate all the issues relating to the institution and an action plan should be evolved in the larger interest of the Medical College.

12. The intra court appeals are disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed."

3.The Division Bench while considering the issues, granted

certain directions to the respondent/Indira Gandhi Medical College & Research Institute in paragraph 11 of the judgment.

4.In view of the fact that the directions issued by the Division Bench are applicable to the Members of the writ petitioner/Union, this Court is of the considered opinion that the said directions are to be made applicable to the Members of the writ petitioner/Union and accordingly, the respondents are directed to initiate steps to implement the directions of the Division Bench as far as the members of the writ petitioner/Union are concerned.

5.Accordingly, the writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

mrn

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

1.The Labour Officer (Conciliation)
No.14, First Floor, Nehru Nagar,
Puducherry - 605 011.

2.The Director,
Indira Gandhi Medical College & Research
Institute, I Floor, College Block,
Vazhudavour Road, Kadirkamam,
Puducherry - 605 009.

+1cc to Mr.P.Rajendran, Advocate, SR.No.86428

+1cc to the Govt.Pleader, (Pondicherry) Vide Sr.No.85970

W.P.No.25466 of 2019

Kak(20/11/2019)

15.10.2019