

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :13.09.2019

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.27350 of 2019

&

W.M.P.Nos.26787 & 26790 of 2019

Dr.S.Swarnalakshimi

..Petitioner

vs

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

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

3.Dr.Arul
Senior Resident,
ESI Medical College,
Department of Dermatology, Coimbatore.

4.Dr.Kamalakannan
Senior Resident,
ESI Medical College,
Department of Dermatology,
Coimbatore.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to forbear the 1st and 2nd respondent from disturbing the petitioner from the post of AP/SR in Leprosy/Meical Officer in National Leprosy Eradication Programme (NLEP), Coimbatore Medical College or in the alternative to post the petitioner as AP/SR in Coimbatore Medical College or ESI Hospital, Coimbatore based on the CML Seniority as per MCI Regulations as prescribed in Minimum Qualifications for Teachers in Medical Institutions (Amendment) Regulation, 2017.

For Petitioner : Mr.G.Sankaran

For Respondent 1 : Mrs.A.Sri Jeyanthi
Additional Government Pleader

For Respondent 2 : Mr.V.Kadirvelu
Special Government Pleader

O R D E R

The prayer sought for in this Writ Petition is to forbear the 1st and 2nd respondent from disturbing the petitioner from the post of AP/SR in Leprosy/Medical Officer in National Leprosy Eradication Programme (NLEP), Coimbatore Medical College or in the alternative to post the petitioner as AP/SR in Coimbatore Medical College or ESI Hospital, Coimbatore based on the CML Seniority as per MCI Regulations as prescribed in Minimum Qualifications for Teachers in Medical Institutions (Amendment) Regulation, 2017.

2. The case of the petitioner is that she was initially appointed as an Assistant Surgeon in Tamil Nadu Medical Services on 11.04.2008. While in service, she was qualified with DGO in the year 2008 and also qualified with MD-DVL in the year 2015. On completion of PG degree, she was given posting as SR/AP of Leprosy in Coimbatore Medical College to work as Medical Officer in National Leprosy Eradication Scheme (NLEP), a Central Government sponsored programme and her salary was being paid based on the fund released by the Central Government under the programme.

3. The Post of Medical Officer in NLEP does not enable any teaching experience to the incumbent and the post has not been brought under purview of the Government order to be restructured. The 2nd respondent DME issued circular dated 24.05.2019 for speciality transfer counseling, wherein the petitioner's name was not included in annexure to the circular in the list of Medical Officers who have been identified as excess of post sanctioned in the concerned institution as per G.O.(4D) No.2.

4. Challenging the said Government Order, number of Writ Petitions came to be filed before this Court. This Court, issued orders to constitute a committee to consider the individual objections/suggestions from all the petitioners and other stake holders and to formulate broad guidelines and submit the same before this Court for further orders to be passed in the matter. Based on the same, the committee constituted for the purpose has heard the individual grievances of the

petitioners as well as the association of Doctors.

5. The recommendation of the committee has not been dealt with the post of Medical Officer coming under NLEP or other central Government sponsored programme. The petitioner was once again called to participate in the counseling on 04.09.2019, vide circular issued by the 2nd respondent dated 30.08.2019. However, the allotment sought to be given in favour of the diploma holders to the post of SR is in violation of MCI regulations and the Diploma holders posted as SR would continue as SR till their retirement, as they could not get any promotion to the post of Assistant Professor/Associate Professor in the absence of PG degree qualification. A qualified Medical Officer would be deprived of their right of promotion if the post of SR is being occupied by unqualified doctors. Aggrieved over the same, the petitioner has come forward with the present Writ Petition.

6. The learned counsel for the petitioner would submit that permission may be granted to the petitioner to make representation in order to express her grievances before the concerned authority, namely, the 2nd respondent. He would also urge this Court to give direction to the 2nd respondent to consider the same.

7. In view of the above, the petitioner is directed to make representation within a period of 2 weeks from the date of receipt of a copy of this Order. Thereafter, the respondents shall pass an appropriate orders on merits within a period of 6 weeks.

8. With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat, Fort St.George, Chennai 600 009.

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

+lcc to Mr.G.Sankaran, Advocate SR.79467
+lcc to the Government Pleader SR.79385

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SJ(CO)
CB(19/11/2019)



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