

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2019

CORAM

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

W.P.No.28059 of 2019

and

W.M.P. Nos. 27680 and 27678 of 2019

S.Aravind Kumar

... Petitioner

Vs

1.The State of TamilNadu,
rep.by its Principal Secretary to Govt.,
Health & Family welfare Dept.,
Secretariat Fort St.George,
Chennai-.9

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

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ, Order or direction, more particularly a Writ in the nature of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order issued by the Second Respondent in Ref.No.4053/E3/4/2019 dated 09.09.2019 and to quash the same in so far as the petitioner is concerned and consequently direct the respondents to fill up the higher category of post of Professor / Associate Professor by promotion and to ascertain the resultant vacancies to the post of Associate Professor in the Department of General Surgery to conduct transfer counselling in the post of Assistant Professor as per the Report of the Committee directed to be implemented in the orders passed in W.P.No.15215 of 2019 etc. cases dated 14.08.2019.

For Petitioner : Mr.G.Sankaran

For Respondents 1-2: Mr.V.Kadirvelu
Special Government Pleader

O R D E R

This Writ Petition has been filed for the issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned order issued by the Second Respondent in Ref.No.4053/E3/4/2019 dated 09.09.2019 and to quash the same in so far as the petitioner is concerned and consequently direct the respondents to fill up the higher category of post of Professor / Associate Professor by promotion and to ascertain the resultant vacancies to the post of Associate Professor in the Department of General Surgery to conduct transfer counseling in the post of Assistant Professor as per the Report of the Committee directed to be implemented in the orders passed in W.P.No.15215 of 2019 etc. cases dated 14.08.2019.

2. According to the petitioner he was appointed as Assistant Surgeon in Tamil Nadu Medical Service. He qualified MS (General Surgery) and he was transferred and posted as Junior Resident in Government Dharmapuri Medical College in the year 2016. While so, the first respondent issued order in G.O.(4D) No.2 Health and Family Welfare Department dated 15.02.2019, in order to streamline the teaching posts sanctioned in Government Medical Colleges and Hospitals and Hospitals are re-organized and re-structured by sanctioning the post matrix in Government Medical Colleges and Hospitals and attached institutions under the control of DME as per the Annexure to the Government order. The tentative steps to implement the G.O.(4D) No.2 dated 15.02.2019 also directs that promotion from Assistant Professor to Associate Professor to be conducted at the first instance to be followed by transfer posting within the Assistant level by counseling.

3. One Dr.Bhanu Rekha, Assistant Professor in Government Dharmapuri Medical College has to be promoted as Associate Professor based on 2019-20 panel in which event the petitioner would not be considered as surplus since he would be fitted in the resultant vacancy to the post of Assistant Professor. 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 and formulated the guidelines as directed in the form of recommendations and placed the same before this Court for further orders.

4. This Court passed orders in Batch of Writ Petitions on 14.08.2019 with clear directions that the respondents / authorities shall forthwith recommence the counseling exercised for the present year and to complete the same on the basis of the recommendations of the Committee within a stipulated time. Therefore, it is directed to implement the recommendations of the Committee without any deviation. In spite of the orders passed by this Court, the second respondent proceed to issue the impugned order dated 09.09.2019, thereby issuing transfer/posting order based on the counseling conducted on 03.06.2019, as per which the petitioner was sought to be transferred and posted to Karur Medical College as Senior Resident. Aggrieved by the same, the petitioner has filed the present Writ Petition.

5. A counter affidavit has been filed on behalf of the second respondent wherein it has been stated as per the direction issued by the common order passed by this Court on 14.08.2018 in W.P.No.15215 of 2019 etc. The measures are being taken to conduct the promotion counseling for the post of Associate Professor in the specialty of General Surgery and the same will be completed within a reasonable time. Based on the resultant vacancy in the specialty of General Surgery, again transfer counseling in the cadre of Assistant Professor / Senior Resident / Junior Resident in General Surgery in the Institutions under the control of second respondent will be conducted. It is also further stated that the petitioner will get a chance to opt for Dharmapuri Medical College, Dharmapuri if one Dr.Bhanu Rekha working as Assistant Professor of General Surgery gets promotion as Associate Professor of General Surgery and the resultant vacancy will be available to him through the transfer counseling. Therefore it is stated that the previous counseling will be conducted based on the seniority and if the petitioner is entitled for that vacancy based on the merits he will be allowed to take up that the vacancy in Dharmapuri Medical College.

6. In view of the above, since it has been assured by the first and second respondent by way of the counter affidavit, stating that if one Dr.Bhanu Rekha who was working as Doctor (General Surgery) was promoted to Associate Professor and the resultant vacancy will be available to the petitioner, if the petitioner is entitled for that vacancy he will be allowed to take up the vacancy in Dharmapuri Medical College in the transfer counseling that would be conducted by the respondents. Therefore, since the grievance of the petitioner is taken care of by the respondents, the Writ Petition is closed, directing the respondents to conduct the transfer counseling and consider the claim of the petitioner in the resultant vacancy that would

be available on one Dr.Bhanu Rekha being promoted as Associate Professor and on merits if the petitioner becomes eligible, the respondent shall carry out the said exercise within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the above direction the Writ Petition stands closed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

bkn

To

1.The State of TamilNadu,
rep.by its Principal Secretary to Govt.,
Health & Family welfare Dept.,
Secretariat Fort St.George,
Chennai-.9

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

+1cc to Mr.G.Sankaran, Advocate SR.89753
+1cc to the Government Pleader SR.88682

W.P.No.28059 of 2019
and

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VG.I(CO)
CB(10/02/2020)

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