

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P. No. 30599 of 2019

and

W.M.P. No. 30662 of 2019

Dr.K. Hemalatha

... Petitioner

Vs.

1. The State of Tamil Nadu,  
Represented by its

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

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

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the Respondents to pass orders for transfer and posting to the post of Assistant Professor in the Department of Urology only after effecting promotion to the post of Associate Professor in Urology in compliance to the orders passed in W.P. No. 15215/2019 etc, cases dated 14.08.2019 and consequently allow the Petitioner to continue in the post of Assistant Professor in Urology in Madras Medical College, Chennai.

For Petitioner : Mr. G. Sankaran

For Respondents : Mr. V. Kadhirvelu  
Special Government Pleader

ORDER

This writ petition has been filed by the Petitioner, praying for the issuance of a Writ of Mandamus, direct the Respondents to pass orders for transfer and posting to the post of Assistant Professor in the Department of Urology only after effecting promotion to the post of Associate Professor in Urology in compliance to the orders passed in W.P. No. 15215/2019 etc, cases dated 14.08.2019 and consequently allow the Petitioner to continue in the post of Assistant Professor in Urology in Madras Medical College, Chennai.

2. Heard Mr. G. Sankaran, learned counsel appearing for the Petitioner and Mr. V. Kadhirvelu, learned Special Government Pleader appearing for the Respondents.

3. The case of the Petitioner is that the Petitioner was qualified with M.S.(General Sugery) and M.Ch., (Urology) and she is working as Senior Assistant Professor in Madras Medical College, Chennai. The Petitioner, Dr.S.Sethurajan and others were qualified with M.D.S. (Dental Surgery) and they are working as Senior Assistant Professor/Assistant Professor in Dental Surgery in Tamil Nadu Medical Services. The Government issued orders in G.O.(4D).No.2 dated 15.02.2019 for approving operational guidelines for effective and smooth implementation of the order. It is made clear as per the Government Order that the overall number of Professor/Associate Professor will increase and the Assistant Professor/Tutor/Senior Resident/Junior Resident will decrease with effect from the date of the order. As per Government Order and subsequent clarificatory order, the, transfer counseling for the post of AP/SR can be conducted only after filling up the promoted post of Professor/Associate Professor by promotion in order to ascertain the resultant vacancy in the feeder post of Assistant Professor within the sanctioned strength. The second respondent issued circular dated 24.05.2019 to conduct speciality transfer counseling wherein the petitioner's name was included to participate in the compulsory transfer counseling. Any such action of the second respondent without filling up higher category post of Professor/Associate Professor would be against the Government Order. Therefore, the Petitioner was constrained to file writ petition in W.P. No. 15222 of 2019 challenging the Circular issued by the Second Respondent dated 24.05.2019 and for other relief as prayed for. This Court, passed orders in the batch of writ petitions on 14.08.2019 with clear directions that the Respondents/authorities shall forthwith recommence the counseling exercise 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. One of the recommendations of the Committee with reference to filling up the Assitant Professor by transfer counseling when the promotional post of Associate Professor remain unfilled in the same Department as mentioned in the report of the Committee. The transfer and promotion counseling for the post of Associate Professor in the Department of Urology has not been conducted till date. However, in spite of the orders passed by this Court, the Second Respondent is taking steps to issue orders to the Assistant Professor in the Department of Urology for transfer/posting in the restructured post. It is required by

the Respondents to implement the orders of this Court without any deviation, whereas, the Respondents are taking steps to issue transfer/posting order without conducting promotion to the higher post and even not conducting counseling for the transfer of posting. Hence this writ petition.

4. Mr. V. Kadhirvelu, Learned Special Government Pleader appearing for the Respondents, on instructions would submit that in respect of the Petitioner, Dr.Hemalatha is concerned no transfer order has been passed and she has been allowed to continue in the same place and therefore there is nothing survives for adjudication in this writ petition.

5. In view of the submission made by the learned Special Government Pleader that since no transfer orders has been passed and she has been allowed to continue the same place there is nothing survives for adjudication in the writ petition. Accordingly, this writ petition stands closed. Consequently, the connected writ miscellaneous petition is also closed. No costs.

-s/d-  
Assistant Registrar

True Copy

Sub-Assistant Registrar

arb

To

1. The Principal Secretary to Government  
Government of Tamil Nadu,  
Health and Family Welfare Department,  
Secretary, Fort.St.George,  
Chennai - 600 009.

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

+1 cc to M/s.G.Sankaran Advocate sr92043

W.P. No. 30599 of 2019  
and  
W.M.P. No. 30662 of 2019

aa15/11/2019