

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2020

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. 26850 of 2007

Dr.P.V.Bhuvaneswari

... Petitioner

Versus

1.The Secretary to Government,
Municipal Administration and
Water Supply Department,
Fort St.George, Chennai-9.

2.The Commissioner of Municipal Administration,
Chepauk, Chennai-5.

3.The Commissioner,
Madurai Municipal Corporation,
Madurai-625 002.

4.The Director of Medical Education,
Kilpauk, Chennai-10.

... Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned order of rejection passed by the 1st respondent in proceedings No.41860/MC/IV/06-11 dated 20.11.2006 and quash the same and consequently direct the respondents to sanction and disburse to the petitioner all eligible full pay and allowances for the period of Post Graduate Diploma studies during 1994-96 and the Post Graduate studies (M.D.General Medicine) during 1998-2001 with consequential service benefits, arrears of pay with interest.

For Petitioner : Mr.R.Prem Narayan

For R1 & R2 : Mr.K.Magesh
Special Government Pleader

For R3 : Mr.T.Shanmugam
(For Madurai Corporation)

For R4 : Mr.Akil Akbar Ali
Government Advocate

O R D E R

This Writ Petition has been filed challenging the impugned order passed by the first respondent in proceedings No.41860/MC/IV/06-11 dated 20.11.2006 and seeks to quash the same and consequently to direct the respondents to sanction and disburse to the petitioner all eligible full pay and allowances for the period of Post Graduate Diploma studies during 1994-96 and the Post Graduate studies (M.D.General Medicine) during 1998-2001 with consequential service benefits, arrears of pay with interest.

2.The learned counsel for the petitioner would submit that the petitioner was initially appointed as Government Medical Officer at Idappadi Municipality, Salem dated 20.04.1990 and joined the duty on 30.05.90. Subsequently, she was transferred and posted to Madurai Municipal Corporation by proceedings dated 10.01.1992 and joined duty on 14.02.92. As per G.O.Ms.No.600 Municipal Administration and Water Supply Department dated 14.09.89, all the employees of Municipalities including Public Health Staff are Government servants for all purposes with effect from 25.09.1989. Therefore, the petitioner is eligible for all the benefits on par with the Government Doctors working in Primary Health Centers.

3. He further submitted that the petitioner was selected under service quota to undergo Post Graduate Diploma Course in D.T.C.D during the year 1994-96 at Madras Medical College. Subsequently she was selected under service quota to undergo Post Graduate Degree course in M.D (General Medicine) during the year 1998-2001 at Madurai Medical College and completed both the courses successfully. He further submitted that though the Doctors working at Primary Health Centres who were selected for Post Graduate courses along with the petitioner under service quota were paid pay and allowances during the period of studies, while the petitioner was paid only stipend, inspite of repeated representations. He further submitted that similarly placed person one Dr.S.Gandhimathi, filed Writ Petition in W.P.No.17059 of 1997 before this Court and the same was allowed on 20.11.2003. Therefore, the petitioner made a representation before the first respondent and subsequently filed Writ Petition in W.P.No.37480 of 2005 before this Court and this Court passed an order dated 07.12.2005 directing the first respondent to pass final order on the representation made by the petitioner. Consequently, the impugned order was passed by the respondent dated 20.11.2006 in proceedings No.41860/MC IV/06-11 dated 20.11.2006 rejecting the claim of the petitioner. Hence, the present Writ Petition.

4. The learned Special Government Pleader would submit that

the petitioner was initially appointed as a Medical Officer at Government Hospital, Salem on 30.05.1990. Thereafter, she was transferred to Madurai Municipal Corporation and joined duty on 14.02.1992. While she was in service in the Corporation of Madurai, she applied for higher studies in Master Degree Course. At that time, the respondent Corporation though permitted to pursue higher studies, as stated in the permission letter that no pay and allowances will be given for the higher studies and the petitioner has also accepted the same and subsequently she had completed the course. After completing Master Degree course, she joined the duty. Thereafter she filed the present petition seeking the above relief. Hence, he seeks to dismiss the Writ Petition.

5. It is seen that the petitioner was permitted to pursue higher studies subject to the condition, that no monetary benefit would be given during the study and the same was accepted by the petitioner. Once she accepted the condition imposed by the Corporation, subsequently, she cannot go back and claim for monetary benefits. Therefore, under these circumstances, there is no merit in the Writ Petition and the Writ Petition is liable to be dismissed. Accordingly, this Writ Petition is dismissed. No Costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

mpa

To

- 1.The Secretary to Government,
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Water Supply Department,
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- 2.The Commissioner of Municipal Administration,
Chepauk, Chennai-5.
- 3.The Commissioner,
Madurai Municipal Corporation,
Madurai-625 002.

4.The Director of Medical Education,
Kilpauk, Chennai-10.

+lcc to Mr.R.Prem Narayanan, Advocate, S.R.No. 35815
+lcc to the Government Pleader, S.R.No. 36097

W.P. 26850 of 2007

GP(CO)
GN(10/12/2020)



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