



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD)No.3301 of 2011

and

M.P(MD).No.2 of 2011

WEB COPY

N.Sankar Kumar

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by it's Secretary,
Department of Health,
Chennai.

2.The Director of Medical Education,
Office of Director of Medical Education,
Chennai.

3.The Dean,
Tirunelveli Medical College Hospital,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings of the respondent No.2 in Mu.Mu.No.14787/Che2/3/2007 dated 02.12.2010 and quash the first portion of the order cancelling the compassionate appointment granted to the petitioner as illegal and consequently, direct the respondent No.1 and 2 to provide employment for the petitioner on the basis of compassionate grounds for the post of C grade physiotherapist within the time stipulated by this Court.

For Petitioner : Mr.G.Karthick for
Mr.T.Lajapathi Roy

For Respondents : Mr.P.Mahendran
Additional Government Pleader

ORDER

The order impugned dated 02.12.2010 reveals that the writ petitioner was already appointed on compassionate ground in proceedings dated 19.12.2009. The father of the writ petitioner died on 24.07.2003 and the application submitted by the writ petitioner was considered and he was appointed to the post of Physiotherapist Grade-II. The Director of Medical Education, decline to approve the appointment of the writ petitioner in the post of Physiotherapist, in view of the fact that the technical



post cannot be provided on compassionate ground. In other words, the appointment of the petitioner as Physiotherapist is not in accordance with the Government Order and accordingly, directed for cancellation of the appointment subsequently, the appointment order issued to the writ petitioner as Physiotherapist was cancelled, however, the impugned order itself states that if the petitioner is willing to accept any post falling under Group-C or Group-D, then his case is to be considered in accordance with the scheme of compassionate appointment.

2.The learned counsel appearing on behalf of the petitioner made a submission that the petitioner in his representation, dated 16.03.2010, had given his consent to work either in Group-C or Group-D post whichever is available. In view of the said consent, the respondents are bound to consider the case of the writ petitioner for appointment on compassionate ground. In view of the fact that the writ petitioner was already appointed on compassionate ground and on account of the fact that the appointment was not made in accordance with the scheme and the appointment was cancelled. Thus, there is no impediments for the authorities to reconsider the case of the writ petitioner on compassionate ground, more specifically, either in Group-C post or in Group-D post whichever is available.

3.It is made clear that the case of the writ petitioner is to be considered in accordance with the Government Order issued in G.O.Ms.No.18, Labour and Employment (Q1) Department dated 23.01.2020. The writ petitioner is permitted to submit an application afresh along with the documents and particulars and on receipt of the said documents and particulars, the respondents are directed to consider the same in accordance with the Government Order and take a decision and pass appropriate orders, within a period of twelve(12) weeks from the date of receipt of a copy of the application from the writ petitioner.

4.With the above directions, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



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To

1.The Secretary,
Department of Health,
Chennai.

2.The Director of Medical Education,
Office of Director of Medical Education,
Chennai.

3.The Dean,
Tirunelveli Medical College Hospital,
Tirunelveli District.

+1 CC to Mr.T.LAJAPATHI ROY, Advocate (SR-24317[F] dated
08/12/2020)

+1 CC to SGP (SR-24378[F] dated 08/12/2020)

W.P. (MD) No.3301 of 2011

and

M.P (MD) .No.2 of 2011

04.12.2020

MJ(CO)

KM (21.12.2020) 3P 6C