



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.2000 of 2020

and

W.M.P (MD) No.1665 of 2020

S.Arumugam

... Petitioner

vs.

1.The Secretary to the Government,
Health and Family Welfare IM2(2) Department,
Fort St.George, Chennai-09.

2.The Principal Secretary and Commissioner of
Indian Medicine and Homeopathy,
Arumbakkam, Chennai-106.

3.The District Siddha Medical Officer,
Pudukkottai,
Pudukkottai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus, to call for the records in impugned order in Ref Na.Ka.Enn.9661/Ni2/1/2014 dated 23.01.2020 passed by the second respondent and quash the same and further direct the second respondent to permit the petitioner to work as Hospital Worker, in Siddha, Government Hospital, Karambakkudi, Pudukkottai District.

For Petitioner : Mr.M.V.Venkataseshan
For Respondents : Mr.V.Anand
Government Advocate

O R D E R

The impugned transfer order has been passed pursuant to the observations made in the earlier writ petition filed by the petitioner herein in W.P(MD) No. 9575 of 2015, dated 14.06.2019. The observations are to the effect that in view of the interim order granted by this Court in the earlier writ petition the petitioner has been serving for more than three years and that the inconvenience caused to the Government servants in view of the transfer, cannot be a reason for interfering with a transfer order, which is made on administrative exigencies.



2.The present impugned order has also been passed on administrative exigencies and the reason assigned by the petitioner in the present writ petition is that he has school going children studying in 12th and 10th standard and they are going to take their board examination in the months of March / April 2020. In view of the observations made by this Court in paragraph No.11 of the order made in W.P(MD) No.9575 of 2015, such a ground may not be available for the petitioner to canvass in the present impugned transfer order, which has been passed pursuant to the earlier order of this Court.

3.Nevertheless this Court is of the view that when a Government employee, who has been serving under the respondents from 1997, has came up with an earnest request that he has school going children who are going to take their board examination in the months of March/April-2020, it is needless to point out that the present transfer might cause serious inconvenience to his young children, who are going to take their board examination. In view of the earlier order of this Court dated 14.06.2019, this Court is not in a position to extend such a sympathetic consideration. However, this sympathetic consideration is always available to the respondents to consider the same even without reference to the orders passed by this Court in the earlier writ petition in W.P(MD) No.9575 of 2015 as well as in the background of the observations made by this Court in the present order, since such a consideration would only be a positive consideration taken on sympathetic grounds on the ground of equity. This Court can only observe that if the petitioner herein makes any representation to keep the transfer order in abeyance till their children complete that board examination, the respondents shall consider it sympathetically.

4.In the light of the observations, the petitioner is granted liberty to make an appropriate application ventilating his grievances before the third respondent and on receipt of the same, the third respondent shall consider it on its own merits and in the light of the observations made above. However no interference could be extended to the present impugned order. Accordingly, this Writ Petition is closed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



To:-

1.The Secretary to the Government,
Health and Family Welfare IM2(2) Department,
Fort St.George, Chennai-09.

2.The Principal Secretary and Commissioner of
Indian Medicine and Homeopathy,
Arumbakkam, Chennai-106.

3.The District Siddha Medical Officer,
Pudukkottai,
Pudukkottai District.

+1 CC to M/s.M.VENKATASESAN, Advocate (SR-4365[F] dated
03/02/2020)

+1 CC to M/s.SPL.GP (SR-4408[F] dated 03/02/2020)

W.P. (MD) No.2000 of 2020

_KK/SAR/10.02.2020/3P-6C/