

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.5799 of 2021

Latha

... Petitioner

-vs-

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

2. The Director, Medical and Rural Health Service, DMS Office, Tenampet, Chennai - 600 006.

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

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, to direct the respondents to transfer the petitioner from Government Medical College Hospital, Thiruvarur to Government Head Quarters Hospital, Kovilpatti pursuant to the petitioner's representation dated 18.02.2021 within a time frame as fixed by this Court.

For Petitioner : Mr.R.Thirumoorthy

For Respondents: Mr.P.V.Selvakumar,

Additional Government Pleader

for R1

Mr.S.Karthikaibalan

Government Advocate, for R2 & R3.

O R D E R

This Writ petition is filed, seeking a direction to direct the respondents to transfer the petitioner from Government Medical College Hospital, Thiruvarur to Government Head Quarters Hospital, Kovilpatti pursuant to the petitioner's representation dated 18.02.2021 within a time frame as fixed by this Court.

2. Mr.P.V.Selvakumar, learned Additional Government Pleader, takes notice for the first respondent and Mr.S.Karthikaibalan, learned Government Advocate, takes notice for the respondents 2 & 3. By consent, final orders are passed in the Writ Petition at the admissions stage.

3. It is the case of the petitioner that the petitioner was a staff nurse and has been discharging her duty in Government Medical College Hospital, Thiruvavarur for the past 6 years without any remarks. During the year 2013 her husband died on account of ill health and thereafter she got remarried with one Mr.Selvam who is practicing advocate in Kovilpatti, Tuticorin District. She further submit that she had undergone a surgery in her stomach and she have to take treatment for child birth. Moreover her mother-in-law is very aged and has got health ailment. Therefore, she made a request to the respondents on 18.02.2021, requesting them to transfer her from Government Medical College Hospital, Thiruvavarur to Government Head Quarters Hospital, Kovilpatti for the reasons stated supra. She had also brought to the notice to the respondents that senior staff nurses to the petitioner have got transferred to Government Head Quarters Hospital, Kovilpatti without any counselling.

4. Considering the facts and circumstances of this case, if the Petitioner's application is already pending with the authorities concerned and, not disposed of earlier, this Court directs the respondent concerned to consider the representation of the petitioner dated 18.02.2021, if he is otherwise eligible and pass appropriate orders, in accordance with law, after affording an opportunity of hearing to the petitioner , as expeditiously as possible, preferably within a period of 60 days from the date of receipt of a copy of this order. The petitioner shall appear for personal hearing on the specified date fixed by the respondents either physically or virtually or he shall send a written submission through registered or speed post, which can be treated as a personal hearing. In case the petitioner fails either to appear in-person or submit his written submission, there is no bar for the respondent to pass orders on the mercy petition based on the available documents before him and the petitioner, at a later point of time, cannot take a plea that opportunity of hearing was not afforded.

5. The petitioner shall furnish his phone number, email ID, if any, etc., along with a copy of the representation dated 18.02.2021 and this order, to the respondent concerned forthwith. The respondent concerned is directed to communicate the decision taken on the application, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the parties to file contempt after expiry of the specified period. In case the authorities concerned fail to send

communication to the parties, they will have to face the civil imprisonment in case of contempt proceedings and, if they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of attempt of delivery, so that the parties, at a later point of time, will not take a plea that he is not aware of the order.

6. With the above direction, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kmm

To

1. The Principal Secretary to Government,
State of Tamil Nadu
Health and Family Welfare Department,
Fort St.George,
Chennai - 600 009.
2. The Director,
Medical and Rural Health Service,
DMS Office, Tenampet,
Chennai - 600 006.
3. The Director of Medical Education,
Kilpauk,
Chennai - 600 010.

+1cc to Mr.R.Thirumoorthy, Advocate, S.R.No.14639

+1cc to the Government Pleader, S.R.No.14868, 14863

WEB COPY

W.P.No.5799 of 2021

PMK (CO)
KM(21/04/2021)