



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.04.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.7976 of 2021

Dr.S.B.Sivathanu

... Petitioner

-Vs-

1.State of Tamil Nadu,

Rep. by its Secretary to the Government,
Department of Health and Family Welfare,
St. George Fort,
Chennai-9.

2.The Director of Medical and Rural Health Services,
DMS Complex,
Teynampet,
Chennai-600 006.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the Respondent No.2 to revise and refix the CML (Civil Medical List) Seniority of the petitioner by way of considering the representation of the petitioner dated 11.12.2020 within the time period stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.C.Ramesh

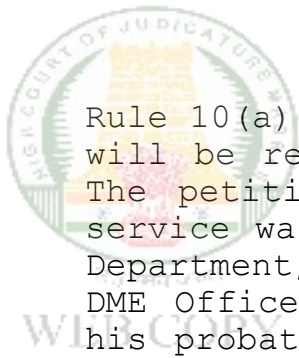
Special Government Pleader

ORDER

This Writ Petition is filed to direct the Respondent No.2 to revise and refix the CML (Civil Medical List) Seniority of the petitioner by way of considering the representation of the petitioner, dated 11.12.2020 within the time period stipulated by this Court.

2.Mr.C.Ramesh, learned Special Government Pleader takes notice on behalf of the respondents.

3. The petitioner was appointed in the post of Tutor in the Department of Ophthalmology at Tirunelveli Medical College Hospital, Tirunelveli on 16.04.2007 under Rule 10(a)(i) of Tamil Nadu State and Subordinate Service Rules. According to the petitioner, there are two method of recruitments by which medical officers were appointed. One is direct recruitment through TNPSC and other is the appointments made under Rule 10(a)(i) of the Tamil Nadu State and Subordinate Service Rules. The persons, who are appointed under



Rule 10(a)(i) of the Tamil Nadu State and Subordinate Service Rules, will be regularised only after passing in special qualifying test. The petitioner was successful in special qualifying test and his service was regularised by G.O(4D).No.29, Health and Family Welfare Department, dated 18.10.2013 and the same was communicated through DME Office, Letter dated 17.12.2013. The petitioner also completed his probationary period in two years. In CML seniority list, the petitioner is shown as seniority No.10682. According to the petitioner, his juniors, who were appointed by direct recruitment through TNPSC, were placed above him. As per Rule 35(aa) of the Tamil Nadu State and Subordinate Service Rules, when the method of recruitment is by way of more than one method, the date of joining should be the criteria and seniority must be fixed based on the date of joining. Hence, the petitioner gave a representation, dated 11.12.2020, requesting the respondents to revise the CML seniority list, but, so far the same has not been considered. Therefore, he has come out with the present writ petition.

4. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

5. The main grievance of the petitioner is that in CML 2018, his name was placed below his juniors without taking into account the date of joining. If the petitioner is aggrieved by the seniority list, he ought to have given an objection to the seniority list and if his objection is not considered, he has to challenge the said seniority list. The petitioner cannot get the relief now sought for by giving representation to the respondents and by filing writ petition.

6. In view of the above, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

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<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The Secretary to the Government,
Department of Health and Family Welfare,
St. George Fort,
Chennai-9.

2.The Director of Medical and Rural Health Services,
DMS Complex,
Teynampet,
Chennai-600 006.

+1 CC to M/s.SPL GP (SR-16484[F] dated 19/04/2021)

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-16395[F] dated
19/04/2021)

W.P. (MD) No.7976 of 2021

17.04.2021

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