



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.12406 of 2019

and

W.M.P. (MD) Nos.9258, 9259, 9260 & 9261 of 2019

WEB COPY

Maria Janaki

... Petitioner

-VS-

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

2.The Directorate of Medical Education
Kilpauk, Chennai-600 010

3.The Directorate of Medical and Rural
Health Services
Chennai-600 005

4.The Dean
Stanley Medical College
Chennai

5.The Dean
Tirunelveli Medical College
Tirunelveli

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records pertaining to the impugned order passed by the second respondent in Ref.29797/E2/2/2019, dated 07.05.2019, quash the same and consequently direct the second respondent to transfer and accommodate the petitioner in the vacancy in the post of Office Superintendent in the fifth respondent Medical College, which was arised due to the retirement of one Maria Ranjitham on superannuation on 30.04.2019.

For Petitioner : Mr.K.Gokul

For Respondents : Mr.S.Shanmugavel
Government Counsel



O R D E R

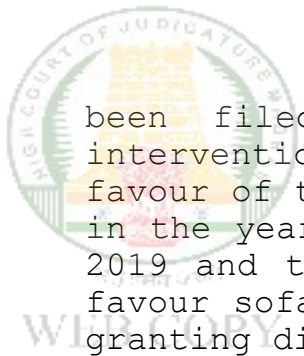
The prayer in this writ petition is for issuance of a writ of certiorarified mandamus to quash the order dated 07.05.2019, passed by the second respondent and consequently, to direct the second respondent to transfer and accommodate the petitioner in the vacant post of Office Superintendent in the fifth respondent Medical College.

2. According to the petitioner, she was appointed as Steno in the fifth respondent Medical College in the year 1991 and during 2006, she was promoted as Assistant and further promoted as Office Superintendent in the year 2017 and posted in the fourth respondent Medical College. Since the petitioner was a native of Tirunelveli and found it very difficult to work in Chennai, she made a representation to the respondents 2 and 4 on 27.03.2017 and based on the said representation, the second respondent deputed the petitioner to fifth respondent College at Tirunelveli on temporary basis. Since the deputation was on temporary basis, the petitioner once again submitted a representation on 05.11.2018 before the second respondent seeking to post her in the fifth respondent Medical College on regular basis. However, the said representation was not considered within a reasonable time and therefore, the petitioner approached this Court by filing a writ petition in W.P. (MD) No.8756 of 2019 seeking direction to the respondent to post her in the vacancy arose due to the retirement of an employee on 30.04.2019. This Court by order dated 11.04.2019, directed the respondents 2 and 3 to consider the petitioner's representation dated 05.11.2018 on merits and in accordance with law, after affording due opportunity of hearing to the petitioner. Based on the directions issued by this Court, the second respondent has passed the impugned order dated 07.05.2019 rejecting the claim of the petitioner. Challenging the said rejection order, the petitioner has filed this writ petition.

3. According to the learned counsel appearing for the petitioner, the petitioner is suffering from Chronic Allergic Rhinitis and the Doctor has advised her not to travel frequently exposing to dirty atmosphere. Therefore, the learned counsel prays to post the petitioner in the fifth respondent Medical College on regular basis.

4. Heard the learned Government Counsel appearing for the respondent on the above submissions.

5. It is seen that when the matter came up for admission, this Court, by order dated 03.06.2019, directed the petitioner to appear before the Medical Board to find out the genuineness of her statement. Accordingly, the petitioner has also appeared before the Medical Board and she was investigated by ENT Department of Rajiv Gandhi Government General Hospital, Chennai and a report has also



been filed before this Court stating that there is no ENT intervention at present and no interim order has been passed in favour of the petitioner. That apart, the impugned order was passed in the year 2019 and the writ petition came to be filed in the year 2019 and the petitioner could not obtain any interim order in her favour so far. Therefore, at this distance of time, the question of granting direction as sought for by the petitioner does not arise.

6. In ***State of U.P. and others vs. Siya Ram and others [(2004) 7 SCC 405]***, the Honourable Supreme Court has held that unless the order of transfer is shown to be an outcome of *mala fide* exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the Tribunals normally cannot interfere with such orders as a matter of routine, as though they were the appellate authorities substituting their own decision for that of the employer / management, as against such orders passed in the interest of administrative exigencies of the service concerned.

7. Further, in ***Airports Authority of India vs. Rajeev Ratan Pandey and others [(2009) 8 SCC 337]***, the Honourable Supreme Court has held that in the matter of transferring Government employees, the scope of judicial review is limited and the High Courts should not interfere with an order of transfer lightly.

8. In the instant case, on perusal of the materials available on records, this Court does not find any *mala fide* exercise or violation of any statutory provision on the part of the respondents and therefore, the impugned transfer order does not warrant any interference of this Court and the writ petition is therefore liable to be dismissed.

9. However, liberty is granted to the petitioner to make a fresh representation to the second respondent and on making such a representation, the second respondent is directed to consider the same on merits and in accordance with law.

10. With the above liberty, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

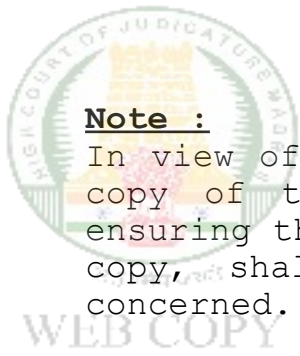
Assistant Registrar (CS-I)

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/ /2021

Sub Assistant Registrar (CS)

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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.

To:

- 1.The Principal Secretary,
Health and Family Welfare Department,
Government of Tamil Nadu,
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Chennai-600 009.
 - 2.The Directorate of Medical Education,
Kilpauk, Chennai-600 010.
 - 3.The Directorate of Medical and Rural
Health Services,
Chennai-600 005.
 - 4.The Dean,
Stanley Medical College,
Chennai.
 - 5.The Dean,
Tirunelveli Medical College,
Tirunelveli.
- +1 CC to M/s.K.GOKUL, Advocate (SR-29174[F] dated 15/09/2021)
- +1 CC to M/s.SPL. GP (SR-28951[F] dated 14/09/2021)

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