



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.17016 of 2019

and

W.M.P. (MD) Nos.13588 & 13589 of 2019

S.Balakrishnan

... Petitioner

-vs-

The Dean
Madurai Medical College &
Government Rajaji Hospital
Madurai

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records in connection with the impugned order passed by the respondent in his proceedings Ref.No.104/2019, dated 23.07.2019 and quash the same as illegal.

For Petitioner: Ms.M.Anbarasi

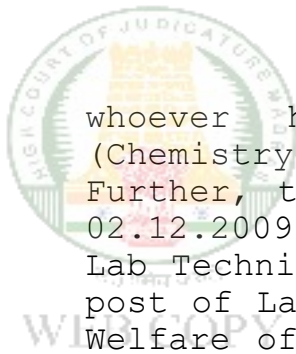
For Respondent: Mr.S.Shanmugavel, Government Counsel

O R D E R

The prayer in this writ petition is for issuance of a writ of certiorari to quash the order, dated 23.07.2019, passed by the respondent.

2. According to the petitioner, he was selected and appointed as Lab Technician Grade-II on 23.07.2002. Thereafter, he was promoted as Laboratory Supervisor on 23.12.2011 and posted in the Bio Chemistry Department attached with Central Lab, Government Rajaji Hospital. In such circumstances, the respondent issued the impugned order, dated 23.07.2019 transferring the petitioner from Central Lab to Pathology Department. Challenging the same, the present writ petition has been filed.

3. The learned counsel for the petitioner would submit that the post of Lab Assistant, which comes under the Hospital Standing Order at Serial No.11A, was redesignated as Lab Supervisor by way of G.O.Ms.No.47, dated 08.02.2007 and by which, the qualification for the said post also got changed. As per the new qualification,

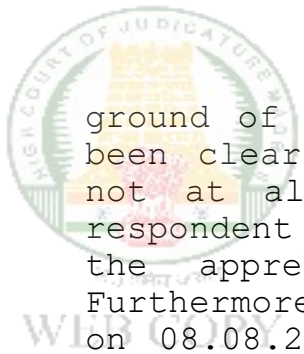


whoever have acquired higher qualification, namely, B.Sc., (Chemistry) or Bio Chemistry, they are entitled for promotion. Further, the Director of Medical Education, has sent a reply dated 02.12.2009, to the application filed under the RTI Act stating that Lab Technician Grade-II candidates alone have to be promoted to the post of Lab Supervisor. Further, the Ministry of Health and Family Welfare of Government of India, in their Hospital Manual, has also prescribed the working nature of the Lab Supervisor in the Central Lab. The learned counsel for the petitioner would further submit that the impugned transfer order has been issued with ulterior motive and with *mala fide* intention and due to the transfer, the duties and responsibilities have been completely changed. On these grounds, the learned counsel prayed for setting aside of the impugned order.

4. The respondent has filed a counter affidavit contending that the post of Lab Supervisor has not been sanctioned in the norms of Medical Council of India and it has been sanctioned only in Rajiv Gandhi Government General Hospital, Chennai, Madurai Medical College, Madurai and Government Rajaji Hospital, Madurai, in the departments of Pharmaceutics, Pharmaceutical Chemistry, Pharmacognocny, Microbiology and Blood Bank at Government Rajaji Hospital, Madurai. Further, it is contended that the duties and responsibilities of the Lab Supervisor is to make arrangement of chemicals and rearrange for the students' lab practical. Further, due to the change in the working place, the seniority of the petitioner for promotion and the monetary benefits would not affect. Since all the posts of Lab Technician Grade-I and Grade-II have been filled up, the service of the Lab Supervisors has become redundant and superfluous. Further, the impugned transfer is only an internal arrangement on administrative grounds for the welfare of the patients. Hence, on these grounds, the respondent prayed for dismissal of the writ petition.

5. Heard the learned counsel on either side and carefully perused the materials available on record.

6. On perusal of the materials available on record, it is seen that the petitioner was appointed as Lab Technician Grade-II on 23.07.2002 and on 23.12.2011, he was promoted as Laboratory Supervisor and posted in the Bio Chemistry Department attached with Central Lab, Government Rajaji Hospital. By order dated 23.07.2019, the respondent transferred the petitioner from Central Lab to Pathology Department. According to the petitioner, the impugned transfer order has been issued with ulterior motive and *mala fide* intention and due to the transfer, the duties and responsibilities have been completely changed. However, the respondent, in her counter affidavit has categorically stated that this is only an internal arrangement for smooth functioning of the Institution and by virtue of the transfer, the petitioner would not suffer on the



ground of either seniority or monetary benefits. Further, it has been clearly mentioned that the duties and responsibilities would not at all be changed. In view of such stand taken by the respondent in her counter affidavit, this Court is of the view that the apprehension of the petitioner is absolutely baseless. Furthermore, the respondent filed her counter affidavit as early as on 08.08.2019, but so far the petitioner has not filed any reply statement disputing the stand taken by the respondent. Therefore, on these grounds, this Court is of the view that the writ petition is liable to be dismissed.

7. In the result, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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.

krk

To:
The Dean,
Madurai Medical College &
Government Rajaji Hospital,
Madurai

+1 CC to M/s.D.SELVANAYAGAM, Advocate (SR-30451[F] dated 28/09/2021

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MMS (CO)

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