



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.14793 of 2022

and

W.M.P Nos.13995 and 13996 of 2022

J.Helin Reena

... Petitioner

Vs.

1. The Secretary
Medical and Health Department
St.George Fort
Chennai-600 009.

2. The Director
Medical and Rural Health Services
D.M.S Campus
Thenampettai
Chennai-600 006.

3. The Director
Director of Medical Education
Poonamallee High Road
Kilpauk, Chennai-10.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking to issue a Certiorarified Mandamus, to call for the records pertaining to the impugned order viz., Ref No.38537/N1/2022 dated 09.05.2022 in respect of petitioner alone, issued by the 2nd respondent and quash the same and consequently direct the 2nd respondent to post her in Government Head Quarters Hospital, Padmanabapuram, at Kanyakumari or any other Government Hospital at Kanyakumari District.

For Petitioner : Mr.R.K.Ganthi

For Respondents : Mr.T.Arun Kumar
Additional Government Pleader



ORDER

By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

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2. According to the writ petitioner, the petitioner was initially appointed as Staff Nurse at Government Primary Health Centre at Munichirai, Kannyakumari District and thereafter, she was transferred to Government Thiruvapur Medical College Hospital, Thiruvapur District in the year 2017. She filed writ petition No.5961 of 2017 on 28.02.2017 seeking direction to the respondents to consider her representation dated 27.01.2017 and transfer her from Government Thiruvapur Medical College Hospital to Primary Health Centre at Pathmanabapuram or Medical College Hospital Asaripallayam or Kuzhithurai Government Hospital or any other place of her native place at Kannyakumari District or any nearest Primary Health Centre in Kannyakumari. In the meantime, the 2nd respondent issued a transfer order to the petitioner, transferring from Thiruvapur Medical College Hospital to Government Hospital, Boothapandi, Kannyakumari District by way of order dated 14.04.2017. Hence the aforesaid writ petition was dismissed as devoid of merits. Thereafter, the 2nd respondent did not voluntarily issue the relieving order to the petitioner for more than a month. In the meantime, the 1st and 2nd respondents issued the same transfer order to another Staff Nurse to the same place and issued the relieving order. Thereafter, the respondents issued modified transfer and posting order to Government Medical College 'B' Block, Omandurar, Chennai dated 12.07.2017 to the petitioner. When the petitioner approached the respondents about this issue, the 1st respondent convinced the petitioner and told that if she does not appeal before the High Court, they will issue a Diversion order to Government Head Quarters Hospital, Padmanabapuram, Kannyakumari District and accordingly, diversion order dated 12.07.2017 was issued to the petitioner. The respondents gave a false promise before this Court and closed the writ petition and now, the respondents violated the promise given to the petitioner and had cancelled the diversion order by an order dated 09.05.2022 and remitting the petitioner to Government Thiruvapur Medical College Hospital, Thiruvapur. The petitioner's children are studying in Kannyakumari and her husband is taking treatment at Kannyakumari and it is difficult for the petitioner to stay without her family. Therefore, challenging the said order, the petitioner has filed the present writ petition before this Court.

3. Mr.T.Arunkumar, learned Additional Government Pleader takes notice for the respondents.

4. Considering the fact that the petitioner is challenging the cancellation of diversion order passed by the respondents, the petitioner cannot have any legal right



seeking to cancel the transfer order or diversion order passed by the respondents and only on the administrative reasons, the said transfer order has been issued by the respondents. As per the decision of the Apex Court, transfer is not a matter of right and it is an incident of service. Therefore, in view of the aforesaid decision, this Court cannot interfere with the transfer order or diversion order passed by the respondents on the ground of administrative reasons. Therefore, the said request of the petitioner is liable to be rejected.

5. However, considering the fact that due to some family circumstances, the petitioner seeks for transfer to her native district at Kanyakumari, this Court is inclined to direct the petitioner to make a representation to the 3rd respondent within a period of two weeks from the date of receipt of a copy of this order. On such representation, the respondents shall consider the petitioner's request and pass appropriate orders on its own merits and in accordance with, as early as possible.

6. With the above direction, this writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary
Medical and Health Department
St.George Fort, Chennai-600 009.
- 2.The Director
Medical and Rural Health Services
D.M.S Campus, Thenampettai, Chennai-600 006.
- 3.The Director
Director of Medical Education
Poonamallee High Road, Kilpauk, Chennai-10.

+1cc to Mr.R.K.Ganthi, Advocate SR. No. 35286

+1cc to Government Pleader SR. No. 36598

W.P.No.14793 of 2022

and

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