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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.14798 of 2022

and

W.M.P No.13999 of 2022

Dr.S.P.K.Kiren

...Petitioner

Vs.

1.The State of Tamil Nadu

Rep. by its Principal Secretary to Government
Health and Family Welfare Department
Secretariat, Fort St. George
Chennai-600 009.

2.The Director of Medical Education

Kilpauk,
Chennai-600 010.

3.The Secretary

Selection Committee
Directorate of Medical Education
Kilpauk,
Chennai-600 010.

...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Mandamus, directing the respondents to award incentive/weightage marks in favour of the petitioner for the services rendered in Koodankulam Government Hospital, Tirunelveli District from 12.06.2018 to 04.07.2019 with classification as Difficult Area upto the year 2018-19 as per G.O.Ms. No.75 Health and Family Welfare Department dated 09.03.2018 as Difficult area by granting incentive marks at the rate of 9% of the marks obtained in NEET-PG-2022 in compliance with Regulation 9 (IV) of Medical Council of India Post Graduate Medical Education Regulations, 2000, as amended, for admission to Post Graduate Medical Courses 2022-23 Session.

For Petitioner : Mr.G.Sankaran

For Respondents: Mr.T.Arunkumar,

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 writ petitioner was initially appointed as Assistant Surgeon in Tamil Nadu Medical Service and posted in Tirunelveli Medical College as Casualty Medical Officer on 22.11.2013. He has also completed P.G Diploma in E.N.T (DLO) in the year 2018 and thereafter, he was posted as Assistant Surgeon in Koodankulam Government Hospital, Tirunelveli District on 12.06.2018 and he continued to work there from 12.06.2018 till 04.07.2019, when he was transferred to District Headquarters Hospital, Padmanabapuram, Kanyakumari District on 05.07.2019. Subsequently, he attended National Eligibility cum Entrance Test (NEET) PG-2022 wherein he has secured high percentage of marks, eligible to be given admission to P.G Medical course. The method of selection for admission to P.G medical course is governed by Regulation 9(IV) of MCI Post Graduate Medical Education Regulations, 2000 as amended. As per proviso to Regulation 9(IV), it is directed to give incentive marks to the Doctors in service of Government/Public authority for each year service in remote/difficult/rural area.

2.01. As per the G.O.Ms.No.75 Health and Family Welfare Department dated 09.03.2018 as amended in G.O Ms. No.96 dated 23.03.2018, it is directed to grant incentive marks to the Medical Officers by considering their working places in 3 categories viz., Category-A1, A2, A3, Category-B and Category-C. The Koodankulam Government Hospital situates in the Difficult area with poor accessibility and the difficulty posed by natural and social environmental factors and it is located nearer to Nuclear Plant. It was classified as Difficult Area made eligible for 100% maximum permissible incentive marks as per G.O.Ms.No.75 dated 09.03.2018. The said G.O was challenged in number of writ petitions wherein this Court passed orders quashing the G.O with direction to redo the exercise in identifying the Remote/Difficult/Rural areas in proper perspective. However, the State Government preferred an appeal in W.A.No.1051 of 2018 etc., cases before this Court and this Court partly allowed the writ appeal by quashing the classification of A-3 category alone and thereby upholding the classification under A-1 and A-2 category. There is suggestion emanated from the orders of this Court to constitute a Committee headed by a retired Judge for classification of areas in future. Based on the orders of this Court, the State Government has constituted a Committee in G.O.Ms.No.536 dated 15.11.2018 to identify Remote/Difficult/Rural areas to award incentive marks to the in-service candidates for



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admission to PG Medical Courses for the academic year 2019-2020. The Committee submitted its report along with the recommendations/suggestions for classification of remote/difficult/rural areas as well as percentage of marks to be awarded for the respective area per year.

2.02. As per the Committee report, the Government issued G.O.Ms. No.86 Health and Family Welfare Department dated 06.03.2019 for categorization of Remote/Difficult/Rural areas for awarding weightage marks to the service candidates annexed to the Government Order in Annexure-I, II, III and IV. Since the Koodankulam Government Hospital in Tirunelveli District remains to be Difficult area, it ought to have been included as Difficult Area in plain to be awarded with 9% of marks per year. Whereas the Koodankulam Hospital has been included in the list of Secondary Grade Institutions in the 'Rural Area' and thereby made eligible only for 5% of marks per year. The petitioner has secured 430 marks in NEET-PG-2022 and thereby, he become eligible for admission to PG Medical Course for 2022-2023 session. In the said circumstances, having regard to the fact that Koodankulam Government Hospital was declared as Difficult area as per G.O Ms.No.75 dated 09.03.2018 and subsequently, it is reclassified as Rural area from the academic year 2019-2020 as per G.O. Ms.No.86 dated 06.03.2019, the petitioner is entitled for 9% of marks applicable to Difficult area for the services rendered by him in Koodankulam Government Hospital for the academic year 2018-2019. Hence, he made a representation dated 06.06.2022 to the 3rd respondent seeking to consider the services rendered by him in Koodankulam Government Hospital for the year 2018-2019 as Difficult area for the purpose of awarding weightage marks in the ensuing selection for admission to P.G Medical Course for the year 2022-2023, whereas, the respondents have not considered the same. Hence, this writ petition.

3. The learned counsel appearing for the petitioner would submit that the respondent Department is going to conduct Counselling for admission to the P.G Medical Course at the earliest and hence, he seeks a direction to the authorities concerned to consider the request of the petitioner.

4. Mr.T.Arun Kumar, learned Additional Government Pleader takes notice for the respondents 1 to 3 and he would submit that if any such representation of the petitioner was received, the same will be considered on merits and in accordance with law.



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5. The said request of the petitioner for awarding of marks will be considered at the time of Counselling for admission to P.G Medical Course for the academic year 2022-2023. Certainly, the authorities concerned has to take note of that and consider the same at the time of counselling. Therefore, in the light of the above, this Court will endeavour the 3rd respondent to consider the said request of the petitioner at the time of Counselling for admission to P.G Medical Course for the academic year 2022-2023, as per the guidelines and government orders.

6. With the above observation, this writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary to Government
Health and Family Welfare Department
Secretariat,
Fort St. George
Chennai-600 009.
2. The Director of Medical Education
Kilpauk,
Chennai-600 010.
3. The Secretary
Selection Committee
Directorate of Medical Education
Kilpauk,
Chennai-600 010.

+1cc to Mr.G.Sankaran, Advocate Sr.NO. 35455
+1cc to The Government Pleader, Sr.NO.36599 [20/06/2022]

W.P.No.14798 of 2022
and
W.M.P.No.13999 of 2022

SMI (CO)
A.SK(16/06/2022)