



WEB COPY



WP No.39655 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18-10-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.39655 of 2016

And

WMP No.33926 of 2016

1.Dr.R.Usha
2.Dr.J.Sophia Jeba Priya
3.Dr.S.Shanmugapriya
4.Dr.N.S.Nalini
5.Dr.A.Selvam
6.Dr.Kaveri

..

Petitioners

VS.

1.The Secretary to The Government of Tamil Nadu,
Health and Welfare Department,
Secretariat,
Chennai – 600 009.

2.The Director of Medical and Rural and Health Services,
Teynampet,
Chennai – 600 006.

3.The Director of Medical Education,
Kilpauk,
Chennai – 600 010.

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4.Dr.Shiva Shankar

5.Dr.R.P.Varalakshmi, MDS

6.Dr.D.Suresh, MDS

7.Dr.T.T.Karthikeyan, MDS

8.Dr.M.R.Manjunath Mandhiradoss, MDS

9.Dr.K.Muthukumar, MDS

10.Dr.O.Ponranjani Vedeswari ..

Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to transfer and posting orders issued in Ref.No.58233/E3/1/2015-RM dated 29.06.2016 issued by the third respondent. The Director of Medical Education, Chennai-10 for having filled in the vacancies of the post of Assistant Professors/Senior Residents/Tutors etc., with the respondents from (4) to (10), quash the same and direct the respondents from (1) to (3) to fill in the above posts with the petitioners in accordance with the fulfilment of requirement of rural service rendered by the petitioners.

For Petitioners

: Mr.R.Ramachandran

For Respondents-1 to 3

: Mr.S.Rajesh,
Government Advocate.



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For Respondent-4

: Ms.Rakshita for
M/s.Kaaviya Silambanan and
Associates.

For Respondent-7

: Mr.P.Ganesan for
M/s.C.S.Associates.

For Respondents-5,6 and 8 to 10: No Appearance

ORDER

The transfer and posting order issued by the third respondent dated 29.06.2016 transferring the respondents 4 to 10, is under challenge in the present writ petition.

2. The petitioners are selected provisionally by the Tamil Nadu Public Service Commission (TNPSC) during the year 2006-2007 for appointment to the post of Assistant Surgeon (Dental). Consequently, the petitioners were appointed to the post of Assistant Surgeon (Dental) in Tamil Nadu Medical Services. The petitioners got admission in the P.G. Course and completed the said Course.



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3. The learned counsel for the petitioners made a submission that in the Recruitment Notification dated 31.03.2013 itself, a condition was imposed to the selected candidates that the vacancies in the Speciality categories will be filled in only by candidates who possess relevant Post Graduate Diploma/Degree/Super Speciality Degree as indicated in the table under Para 1(b) and who are willing to serve in the Speciality Department of any of the Hospitals in the District (i.e.,) in the District Headquarters Hospitals, Taluk Headquarters Hospitals, T.B.Sanatorium etc., at least for a period of five years after which they will be considered for transfer to General line (i.e.,) other than the Speciality or to teaching post, if they so desire.

4. Based on the above condition, the respondents 4 to 10 were not posted in the rural places for completion of five years of service as stipulated. In violation of the said condition imposed at the time of recruitment of the respondents 4 to 10, the impugned order of transfer and posting has now been issued depriving the rights of the petitioners to serve in the Teaching Institutions.



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5. Transfer and posting is an incidental to service, more-so, a condition of service. The High Court cannot interfere with the routine administration of the Government Departments. The power of Judicial Review under Article 226 of the Constitution of India cannot be extended, so as to interfere with the administrative transfers issued in the interest of public administration. Only if the transfer orders are tainted with the allegations of mala fides or issued by an Incompetent Authority having no jurisdiction, then alone the High Court would interfere, but not otherwise.

6. In the present case, the Recruitment condition unambiguously stipulates that a candidate selected must be willing to serve in the Speciality Department of any of the Hospitals in the District (i.e.,) in the District Headquarters Hospitals, Taluk Headquarters Hospitals, T.B.Sanatorium etc., at least for a period of five years. Therefore, any candidate selected and appointed cannot refuse to serve in the said places, if they are transferred and posted.



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7. However, transfer and posting is an administrative prerogative, which cannot be interfered with by the other employees. If at all any employee recruited pursuant to the Notification is transferred and if they are refused to serve, then the Competent Authorities are empowered to initiate action invoking the conditions agreed by the selected candidates. Therefore, the condition would be implemented. If at all the recruited candidates were posted in the rural places. But they cannot be held responsible for the issuance of transfer and posting to Medical Institutions.

8. It is the prerogative of the Authorities to take a decision regarding the transfers and postings in the interest of public administration, which cannot be interfered with by the High Court in a routine manner by invoking the power of judicial review. Therefore, if at all any grievance exists for the petitioners, they are at liberty to approach the Competent Authorities for the redressal of their grievances.



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9. With the abovesaid observations, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are also dismissed.

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Index : Yes/No.
Internet : Yes/No.
Speaking Order/Non-Speaking Order.
Svn

To

- 1.The Secretary to The Government of Tamil Nadu,
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Chennai – 600 009.
- 2.The Director of Medical and Rural and Health Services,
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