



WEB COPY



W.P.No.26926 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2022

CORAM

THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

W.P.No.26926 of 2022

and

W.M.P.No.26134 of 2022

1.Dr.G.R.Balaji Sharma,M.S, M.Ch., (Plastic Surgery),

2.Dr.S.Raha, M.S, M.Ch., (Plastic Surgery)

... Petitioners

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 Director of Public Health and Preventive Medicine,
DMS Compound, Anna Salai,
Teynampet, Chennai-600 006

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Mandamus, directing the respondents to pass order for posting the petitioners as Assistant Professor/Senior Resident in the Department of Plastic Surgery in Tirunelveli Government Medical College in



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the regular post based on the option exercised by the petitioners in the counselling held on 09.09.2022 by replacing temporary Bond candidates to be accommodated under Section 19(1) Tamil Nadu Government Servants (Conditions of Service) Act, 2016, in consideration of representation submitted by the petitioners dated 22.09.2022 and 23.09.2022.

For Petitioners : Mr.G.Sankaran

For Respondents : Mr. Stalin Abhimanyu
Additional Government Pleader

ORDER

Mr.Stalin Abhimanyu, learned Additional Government Pleader takes notice on behalf of the respondents.

2.The learned counsel for the petitioners submit that the petitioners are in-service candidates and have subsequently obtained additional qualification/Super Speciality in Plastic Surgery on 14.09.2022.

3.It is the specific case of the petitioners that five of the persons have qualified. One vacancy exist in Kanyakumari District and therefore, the person with seniority will be accommodated in Kanyakumari Medical College, Asaripallam, Kanyakumari District. As far as others are concerned, the



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petitioners should be accommodated in Tirunelveli Medical College, Tirunelveli in place of those who are currently occupying the post in terms of the bond executed by them.

4.The learned counsel for the petitioner has also drawn attention to the stand of the Department in W.P.Nos.5105 of 2021 etc., batch in the case of **Dr.Saravanan and others Vs. The Health Secretary, Health and Family Welfare Department, The Secretariat Nirmal Bhawan, C Wing, New Delhi – 110 001 and others** vide its order dated 26.04.2022.

5.It is the further case of the petitioners that those holding the post under Section 19 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 cannot be continued where, regular in-service candidates with proper qualification are available.

6.This writ petition is opposed by the learned Additional Government Pleader for the respondents, on the ground that the petitioners have no rights to oust the persons, who are currently serving in terms of their bond conditions.



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7. That apart, it is submitted that the DRO/Additional Director of Medical Education has issued a letter dated 30.09.2022 bearing reference No.60398/E3/1/2022 and therefore, all further recruitments/accommodation of in-service candidates will be in terms of the aforesaid order of the DRO/Additional Director of Medical Education. It is therefore submitted that the Writ petition is liable to be dismissed.

8. This writ petition is disposed of at the time of admission, by directing the respondents to consider the petitioners' representations dated 22.09.2022 and 23.09.2022 and pass appropriate orders on merits and in accordance with law under the provisions of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 and the relevant Government Orders within a period of 15 days from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

06.10.2022

Index : Yes/No
Speaking/Non-Speaking Order
jas/vsn



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To

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C.SARAVANAN, J.



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