



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:19.04.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

WEB COPY

W.P. (MD)No.6822 of 2020

&

WMP (MD)Nos.6222 & 6223 of 2020

M.Kalyanasundaram

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented 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-600 009.

3. The Dean,
Madurai Medical College,
Madurai-625 020.

4. Dr.R.Selvakumar

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to 3rd respondent in his proceedings Ref No. 418 / E1/1/2020 dated 5.5.2020 appointing the 4th respondent as Director (in charge) Institute of Anesthesiology, Madurai Medical College, Madurai and quash the same and further direct the 1st and 2nd respondents prepare panel list for the promotion Director Institute of Anesthesiology based on the Associate Professor Promotion Panel and to include the petitioner in the panel for promotion as Director Institute of Anesthesiology.

For Petitioner	: Mr.D.Nallathambi
For R1 to R3	: Mr.N.Satheesh Kumar
	Additional Government Pleader
For R4	: No Appearance

ORDER

The order dated 05.05.2020 appointing the fourth respondent as Director (in-charge), Institute Anesthesiology, Madurai Medical College, Madurai, is under challenge in the present writ petition.



2.The petitioner is serving as Professor of Anesthesiology, Madurai Medical College. The petitioner claims that he is fully qualified for promotion to the post of Director of Institute of Anesthesiology. The petitioner states that as per Civil Medical List (CML), the petitioner is senior and therefore, promotion to the post of Director of Institute of Anesthesiology is to be granted to the writ petitioner. Contrary to the CML seniority, the respondents have now appointed the fourth respondent as Director. Thus, the petitioner is constrained to move the present writ petition.

3.The grievance of the petitioner is that the petitioner is a senior to the fourth respondent, in the panel and therefore, the petitioner is to be considered for promotion to the post Director of Anesthesiology. Interestingly, the order impugned is not a promotion order at all. The respondents had appointed the fourth respondent only as Director (in charge), Institute of Anesthesiology, Madurai Medical College. Mere in-charge position would not confer any right on the fourth respondent to claim for promotion. In the matter of promotion, in-charge position is granted, based on the departmental seniority and the next available senior in the department will be appointed as in-charge in a particular post, till the regular appointments are made in accordance with the rules in force. Thus, the process for regular appointment is undertaken, the names of all the eligible members to be considered for promotion to the post of Director of the Institute of Anesthesiology, by following the procedure as contemplated. However, the impugned order is not the promotion order and it is only an appointment of the fourth respondent as Director (in-charge) Institute of Anesthesiology, till the regular appointments are made in accordance with the rules. Thus, the petitioner cannot have a cause for the purpose of moving a writ petition as such in-charge position would not confer any right in the post. Accordingly, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1. The Principal Secretary to Government,
The State of Tamil Nadu,
Health and Family Welfare Department,
Secretariat,
Fort St.George,

<https://hcservices.chennai/hc600des009>.



2. The Director of Medical Education,
Kilpauk, Chennai-600 009.

3. The Dean,
Madurai Medical College,
Madurai-625 020.

+1 CC to M/s.SPL.GP. (SR-19772[F] dated 20/04/2022)

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19.04.2022

SRR (CO)
KB (16.05.2022) 3P 5C