



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P (MD)No.10048 of 2021

and

W.M.P. (MD)Nos.7755, 7756, 8472, 8473, 15668 of 2021

Dr.Umamaheswaran

... Petitioner

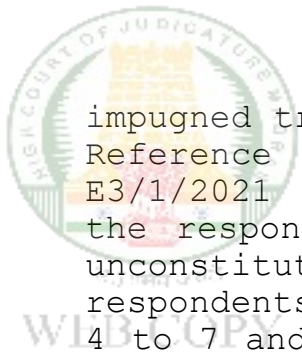
versus

1. The Principal Secretary,
Department of Medical and
Family Welfare,
Secretariat,
St. George Fort, Chennai.
2. The Directorate of Medical Education,
O/o. the Directorate of Medical Education,
Kilpauk, Chennai.
3. The Dean,
Madurai Medical College,
Government Rajaji Hospital,
Madurai.
4. Dr.K.R.Gopinath, MS (Ortho),
Assistant Professor of Orthopaedics,
Madurai Medical College,
Madurai.
5. Dr.L.Ashok, MS (Ortho),
Assistant Professor of Orthopaedics,
Madurai Medical College,
Madurai.
6. Dr.K.Vivek, MS (Ortho),
Assistant Professor of Orthopaedics,
Madurai Medical College,
Madurai.
7. Dr.M.Ganeshkumar, MS (Ortho),
Assistant Professor of Orthopaedics,
Madurai Medical College,
Madurai.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned transfer order in Reference No.0004462/E3/1/2021 Ortho-36 of the petitioner and the

<https://hcservices.ecourts.gov.in/hcservices/>



impugned transfer orders in Reference No.0004462/E3/1/2021 Ortho-30, Reference No.0004462/E3/1/2021 Ortho-32, Reference No.0004462/E3/1/2021 Ortho-34 and Reference No.0004462/E3/1/2021 Ortho-35 of the respondent Nos.4 to 7 dated 30.04.2021 and quash the same as unconstitutional and illegal and consequently, direct the respondents 1 to 3 to revoke the transfer orders of the respondents 4 to 7 and repost the petitioner from Virudhunagar Medical College to Madurai Medical College as a Senior Resident in Orthopaedics by following the directions issued by this Court in W.P.No.15215 of 2019, etc. dated 14.08.2019

For Petitioner : M/s.A.Rajini
For R1 to R3 : Mr.S.Saji Bino,
Special Government Pleader
For R4 and R5 : Mr.V.Lakshmanan
For R6 and R7 : No appearance

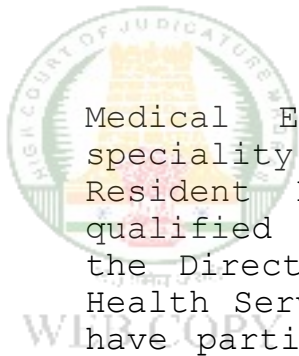
ORDER

This writ petition is filed against the order of transfer dated 30.04.2021. The petitioner, who is working as Casualty Medical Officer at Government Medical College, Theni, was transferred and posted from Theni Medical College to Virudhunagar Medical College.

2. The learned counsel for the petitioner submits that the transfer was made without disclosing the exact vacancies in Madurai and four posts/seats alone were declared as vacant and 5th post was filled up separately on 01.03.2021. She also submits that while passing the order of transfer, the directions issued by this Court in W.P.No.15215 of 2019, etc. on 14.08.2019 were not followed and therefore, the transfer has been made with *mala fide* and it is liable to be set aside.

3. According to the learned counsel for the petitioner, the petitioner has opted for Madurai Medical College and there was five vacancies during the relevant period at Madurai Medical college, however, only four vacancies were displayed during the counselling and 5th post was not displayed and it was filled up separately on 01.03.2021.

4. Mr.S.Saji Bino, learned Special Government Pleader appearing for respondents 1 to 3 submits that there is no violation of any order of this Court and the transfer counselling was conducted for the Doctors from various wings and the Medical Departments, such as, Directorate of Medical Education/Directorate of Medical and Rural Health Services/Directorate of Medical and Rural Health Services (ESI) and Directorate of Public Health and Preventive Medicine. As per the direction of the Directorate of



Medical Education, the transfer counselling to fill up the speciality vacancy for the posts of Assistant Professor/Senior Resident I, Junior Resident/Tutor was conducted with suitable qualified Medical Officers (MD/MS/DNB/DN/MCH), who are working in the Directorate of Medical Education/Directorate of Medical Rural Health Services, etc. The Petitioner as well as respondents 4 to 7 have participated in the transfer counselling on 26.02.2021. For vacancies in Orthopedics Speciality, the petitioner and the respondents 4 to 7 exercised their option for posting and based on the option exercised by the petitioner herein at the time of counselling, he was posted at Virudhunagar Medical College. Accordingly, he also joined duty virtually on 01.06.2021.

5. With regard to the ground raised by the learned counsel for the petitioner that the directions issued by this Court in W.P.(MD) No.15215 of 2019, etc. dated 14.08.2019 was not followed, the learned Special Government Pleader appearing for respondents 1 to 3 submits that the relevant paragraphs referred by the petitioner from the above orders, the ratio of 50:50 in Senior Resident posts is applicable to the particular year for promotions and postings. He further submits that the petitioner is a Diploma Holder in Ortho qualification and he was working as Casualty Medical Officer at Government Medical College, Theni, whereas the respondents 4 to 7 have completed their post graduate course in MS(Orthopedics) and they have claimed the post of Senior Resident/Assistant Professor of Orthopaedics Speciality at Government Medical College, Madurai during the transfer counselling. Accordingly, the vacancies at Madurai were filled up. During the same counselling, the petitioner also participated and opted for the post of Junior Resident in Orthopaedic Surgery at Government Medical College, Virudhunagar. The petitioner, after joining in the post on 01.06.2021, has filed this present writ petition and it is an afterthought.

6. According to the Special Government Pleader, the Medical Officers possessing Post Graduate Degree have to be given priority for the posting as faculty in the Medical Colleges and Hospitals, since they have to gain teaching experience for their further promotions. Accordingly, respondents 4 to 7, who completed post graduate course in MS(Orthopedics), were posted as Assistant Professors of Orthopedics as per their option exercised during the transfer counselling.

7. This Court paid its anxious consideration to the rival submissions made.

8. The transfer counselling was conducted on 26.02.2021. The petitioner participated in the transfer counselling and also opted for Virudhunagar. The respondents 4 to 7, possessing the post graduate degree in Orthopedics, also participated and depending upon their qualification, they were posted as Assistant Professors of Orthopedics. The petitioner has not made out any case that there is



any *mala fide* on the part of the respondents. Moreover, the petitioner also joined as Junior Resident in Orthopaedic Surgery at Government Medical College, Virudhunagar, on 01.06.2021 and after joining in the said post, the petitioner as an afterthought filed this writ petition.

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9. In view of the above, this Court is not inclined to entertain this writ petition. Accordingly, the writ petition is dismissed. If the petitioner is still having a grievance that the directions issued by this Court in W.P.No.15215 of 2019, etc. dated 14.08.2019 were not strictly followed by the respondents, while conducting transfer counselling, it is always open to the petitioner to work out his remedy in the manner known to law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

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Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Principal Secretary,
Department of Medical and
Family Welfare,
Secretariat,
St. George Fort, Chennai.
2. The Directorate of Medical Education,
O/o. the Directorate of Medical Education,
Kilpauk, Chennai.
3. The Dean,
Madurai Medical College,
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W.P (MD) No.10048 of 2021

01.02.2022

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