



W.P(MD)No.25203 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.25203 of 2018

T.Gnanasekaran

... Petitioner

Vs

- 1.The State represented by
The Principal Secretary to Government,
Health and Family Welfare Department,
Fort.St.George,
Chennai – 600 009.
- 2.The Director of Medical and Rural Health Services,
DMS Compound,
Theynampet,
Chennai – 600 006.
- 3.The Director of Public Health and Preventive Medicine,
Theynampet,
Chennai – 600 006.
- 4.The Director of Medical Education,
Kilpauk,
Chennai – 600 010.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 4 to issue promotion order as Associate Professor in Urology Department in favour of petitioner based on the proceedings of fourth respondent made in Reference No.35588/E1/5/2018 circular dated 12.09.2018.



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For Petitioner : Mr.K.Govindarajan

For Respondents : Mr.N.Sathees Kumar
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2. The writ petitioner joined Tamil Nadu Medical Service on 20.11.1997 as Assistant Surgeon. He subsequently acquired M.S (General Surgery) and MCh (Urology) degrees. He is now working as Assistant Professor (Urology) in Government Medical College, Madurai from 12.08.2010. The grievance of the petitioner is that even though he was eligible to be promoted as Associate Professor long back, on account of faulty preparation of CML (Civil Medical List) seniority list, his promotion is being indefinitely deferred. The petitioner filed W.P(MD)No.3741 of 2018 for such revision and refixation of Civil Medical List. The said writ petition was disposed of by me on 28.02.2018 with direction to consider the petitioner's representation dated 18.01.2018. Subsequently, CML seniority list was prepared which was impugned in W.P.No.24404 of 2018 etc., batch. In the said writ proceedings, the petitioner got himself impleaded. The writ petitions were disposed of on 29.04.2022 on the following terms:



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“59. In the light of the above discussion, these Writ Petitions are disposed by directing the appointing authority to re-fix the seniority in Civil Medical List strictly in accordance with Rule 4 (e) of the Tamil Nadu State and Subordinate Rules and G.O. (Ms) No. 354, Health and Family Welfare (B2) Department, dated 23.10.2009 year wise and promote the petitioners and the private respondents who earlier missed out their promotion in accordance with the above Rules and the above G.O., within a period of six weeks from the date of receipt of a copy of this order. Needless to state that all attendant benefits shall be conferred to those who wrongly missed out their promotion earlier. No cost. Consequently, connected Miscellaneous Petitions are closed.”

3. Even though direction was given for completing the entire exercise within a period of six weeks, the respondents failed to adhere to the said direction. The petitioner could have very well filed a Contempt Petition. Instead of doing so, the petitioner chose to activate W.P(MD)No.25203 of 2018 which was lying in limbo. Mentioning was made and I listed the writ petition for final disposal. The case was listed on 08.11.2022 and was directed to be listed on 18.11.2022 i.e., today. Probably apprehending that this Court will take adverse notice as to why the direction given on 29.04.2022 was not adhered to, the respondents have published the panel for the post of Associate professor (Urology) on 14.11.2022. G.O(Ms)No.1213 Health and Family Welfare (A1) Department, dated 14.11.2022 reads as under :



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ABSTRACT

Tamil Nadu Medical Service – Panel for the post of Associate Professor of Urology for the year 2018-19 – Approved – Orders – Issued

Health and Family Welfare (A5) Department

G.O.(D)No.1213

Dated:14.11.2022

சுகப்பு, தனி - 28

தேவதர்மம் - 2053

Read:-

1. G.O.(D)No.953, Health and Family Welfare Department, dated 07.08.2022.
2. From the Director of Medical Education, Letter No.76584/E1/1/ 2021, dated 18.08.2022.

ORDER:-

The Government Order first read above, the Government have approved the estimate of vacancy for the post of Associate Professor of Urology in Tamil Nadu Medical Service by promotion as 5 (FIVE) for the year 2018-19.

2. Based on the estimate of vacancy approved by the Government in the Government Order first read above, the Government approve the regular panel for the year 2018-19 consisting the name of the following Medical Officer fit for promotion to the post of Associate Professor of Urology.

Sl.No.	Name and Designation	CML / 2022
1.	Dr.S.Frank Davis Daniel, Assistant Professor of Urology, Kanyakumari Government Medical College, Asaripallam	552
2.	Dr.S.Mangaiyarkarasi, Assistant Professor of Urology, Tirunelveli Medical College, Tirunelveli.	931
3.	Dr.T.Chanasakaran, Assistant Professor of Urology, Madurai Medical College, Madurai.	1105
4.	Dr.K.Jayaprakash Narayanan, Assistant Professor of Urology, Thanjavur Medical College, Thanjavur.	1114
5.	Dr.K.V.Arasi, Assistant Professor of Urology, Stanley Medical College, Chennai.	1464



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3. The Director of Medical Education is directed to communicate a copy of this order to other Medical Officer, if any, in the cadre of Assistant Professors, who are seniors to the above mentioned Medical Officers, by Registered post with specific instructions that appeal if any, shall be submitted through proper channel within two months from the date of issue of this order.

(BY ORDER OF THE GOVERNOR)

P.SENTHILKUMAR,
PRINCIPAL SECRETARY TO GOVERNMENT.

To

The Director of Medical Education, Chennai-600 010.

The Medical Officers,

- Through the Director of Medical Education, Chennai-600 010.

The Accountant General, Chennai-600 010.

The Pay and Accounts Officer, Concerned.

The District Treasury Officer, Concerned.

Copy to:-

The Special Personal Assistant to Hon'ble Minister (Health), Chennai-600 009.

Data Cell / Stock file / Spare copy.

// FORWARDED / BY ORDER //

M. Senthil Kumar
SECTION OFFICER



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4. The learned counsel for the petitioner states that the persons who figure as Sl.No.1 and 2 ought to rank below him and that he would question the same at the appropriate point of time. For the present, he is willing to proceed on the basis of the aforesaid G.O(Ms)No.1213 Health and Family Welfare (A1) Department dated 14.11.2022. Even according to the respondents, the petitioner is eligible to be promoted to the post of Associate Professor of Urology by including him in the panel for the year 2018-19. Vide order dated 29.04.2022 in W.P.No.24404 of 2018 etc., batch it had been specifically directed that those who had earlier missed out their promotions will be entitled to all the attendant benefits from the said date.

5. The learned Additional Government Pleader appearing for the respondent states that the counselling process will have to be formally held and only thereafter, the petitioner's place of posting and other aspects can be finalised.

6. I must remind the respondents that the petitioner cannot wait for eternity. I, therefore, direct the respondents to give effect to G.O(Ms)No.1213 Health and Family Welfare (A1) Department dated 14.11.2022 within a period of four weeks from the date of receipt of a copy of this order. The petitioner's promotion as Associate Professor will relate back to 2018-2019. His right to be



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promoted as Professor will be considered by reckoning his promotion to the post of Associate Professor from the year 2018-2019.

7. With the aforesaid directions, this writ petition is disposed of. I make it clear that the right of the petitioner to claim higher benefit is left open. No costs.

18.11.2022

Index : Yes / No
Internet : Yes/ No
mga

Note: Issue Order Copy on 24.11.2022.

To

- 1.The Principal Secretary to Government,
Health and Family Welfare Department,
Fort.St.George,
Chennai – 600 009.
- 2.The Director of Medical and Rural Health Services,
DMS Compound,
Theynampet,
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G.R.SWAMINATHAN, J.

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