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W.P.No.16144 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2023

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THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.16144 of 2021

1. V.Muruganandam

2. A.Sivakumar

...

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 Dean,
Coimbatore Medical College,
Coimbatore.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records relating to the impugned proceedings issued by the third respondent in Na.Ka.No.469/Ni3/2014 dated 12.06.2020 and the subsequent impugned proceedings issued by the third respondent in Na.Ka.No.469/Ni3/2014 dated 16.02.2021 and to quash the same and consequently directing the



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respondents to grant appointment of the petitioners by transfer to the post of Non Medical Demonstrator in the existing vacancies in Coimbatore Medical College on par with the juniors in service appointed as Non Medical Demonstrator in the year 2012 and 2013, with all consequential and other attendant benefits, within a time frame.

For Petitioners ... Mr.G.Sankaran
For Respondents ... Mr.G.Nanmaran
Special Government Pleader

ORDER

This Writ Petition has been filed for the issuance of a writ of mandamus to call for the records relating to the impugned proceedings issued by the third respondent in Na.Ka.No.469/Ni3/2014 dated 12.06.2020 and the subsequent impugned proceedings issued by the third respondent in Na.Ka.No.469/Ni3/2014 dated 16.02.2021 and to quash the same and consequently to direct the respondents to grant appointment of the petitioners by transfer to the post of Non-Medical Demonstrator in the existing vacancies in Coimbatore Medical College on par with the juniors in service appointed as Non Medical Demonstrator in the year 2012 and 2013, with all consequential and other attendant benefits, within a time frame.



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2. Heard Mr.G.Sankaran, learned counsel for the petitioners and

Mr.G.Nanmaran, learned Special Government Pleader for the respondents.

3. The petitioners were originally appointed as Lab Technical Gr.II in Coimbatore Medical College on 15.07.2002 and subsequently they were promoted to the post of Lab Technician Gr.I on 26.03.2008. The petitioner claims that they are eligible to be appointed to the post of Non-Medical Demonstrator (NMD) as per the Notification in G.O.Ms.No.2409, Health and Family Department dated 16.11.1977.

4. The learned counsel for the petitioner submitted that in view of revised Government Order in G.O.Ms.No.296, Finance (Pay Cell) Department dated 26.08.2010, the post of Non-Medical Demonstrator (NMD) / Laboratory Supervisor was given with revised scale of pay as Rs.9300-34800+440 GP which is identical to the pay of the post of Lab Technician Gr.I; as per Special Rules for Tamil Nadu Medical Subordinate Services Branch-IV as amended vide notification in G.O.Ms.No.2409, Health and Family Department dated 16.11.1977, the post of Non-Medical



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Demonstrator can be filled up by transfer from any other category or class carrying identical scale of pay; many qualified persons who were working in the post of Lab Technician Gr.I was given appointment as Non-Medical Demonstrator by transfer as per Special Rules; the petitioner have given a representation to the third respondent / Coimbatore Medical College for seeking appointment to the post of Non-Medical Demonstrator in the existing vacancies and that was not considered.

5. The Government had issued an order vide G.O.Ms.No.285, Finance (Pay Cell) Department, dated 22.07.2013 as per which the scale of pay for the post of Non-Medical Demonstrator was revised with Grade pay of Rs.4,500/- instead of Rs.4,400/- and consequent to which no further appointments can be made by transfer from the post of Lab Technician Gr.I to the post of Non-Medical Demonstrator.

6. The petitioners have filed a Writ Petition in W.P.Nos.21340 and 21341 of 2013 before this Court and the same was disposed with directions to the respondents to consider the representation submitted by the



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petitioners; thereafter the third respondent issued the impugned proceedings dated 12.06.2020 by stating that the petitioners cannot be given appointment to the post of Non-Medical Demonstrator since both the posts do not carry identical scale of pay.

7. The petitioners again submitted their representation on 14.07.2020 by referring to the fact that they requested for appointment with retrospective effect from 2013 with the scale of pay for both the posts, by taking into consideration of the appointment given to several juniors in other medical institutions in the year 2012 and 2013; however the third respondent had issued subsequent impugned proceedings dated 16.02.2021 rejecting the claim of the petitioners by stating that the appointment by transfer can be made from one category to another category only if they carry identical scale of pay.

8. The main contention of the petitioners is that when the other Lab Technicians Gr.I who are juniors to the petitioners are given with the benefit of appointment as Non-Medical Demonstrator by transfer prior to



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2013, the right of the petitioners is prejudiced due to the delay caused by the third respondent. The petitioners have filed this writ petitions to grant appointment by transfer to the post of Non-Medical Demonstrator in the existing vacancies in Coimbatore Medical College on par with the juniors in service appointed as Non-Medical Demonstrator in the year 2012 and 2013 with all consequential and other attendant benefits.

9. Mr.G.Nanmaran, learned Special Government Pleader submitted that the petitioners may give a fresh representation to the respondents in this regard and the respondents will consider the same and pass orders.

10. Considering the facts and circumstances of the case but without getting into the merits, the petitioner shall give a fresh representation to the respondents and on receipt of the same, the respondents shall consider the same and pass orders in accordance with law, within a period of four weeks from the date of receipt of the petitioner's representation. No costs.

19.10.2023

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To:

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R.N.MANJULA ,J.

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