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W.A.Nos.3093 and 2917 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2023

CORAM :

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.A.Nos.3093 and 2917 of 2019
and C.m.p.Nos.18925, 19686, 19687 of 2019 & 8748 of 2022**

W.A.No.3093 of 2019

Dr.M.R.K.Rajaselvam

... Appellant

-Vs-

1.The State of Tamil Nadu
rep.by its Secretary to Government
Health and Family Welfare Department
Fort St.George, Chennai - 600 009.

2.The Director of Medical Education
Kilpauk, Chennai 600 010.

... Respondents

Prayer : Writ Appeal under Clause 15 of the Letters Patent against the order in
W.P.No.15242 of 2019 dated 14.08.2019.

For Appellant : Mr.E.Vijay Anand
For Respondents : Mr.K.V.Sajeev Kumar
Special Government Pleader

W.A.No.2917 of 2019

1.Dr.D.Ashwini
2.Dr.S.P.Santhakumari
3.Dr.S.Subhashini



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4.Dr.C.N.Angel Deepa

5.Dr.K.Ganesh

6.Dr.A.Arulmozhi

... Appellants

-Vs-

1.The State of Tamil Nadu
rep.by its Secretary to Government
Health and Family Welfare Department
Fort St.George, Chennai - 600 009.

2.The Director of Medical Education
Kilpauk, Chennai 600 010.

3.Dr.D.Thenmozhi

4.Dr.V.Abhirami

... Respondents

Prayer : Writ Appeal under Clause 15 of the Letters Patent against the order in W.P.No.16657 of 2019 dated 14.08.2019.

For Appellants : Mr.G.Sankaran, Senior Counsel
for Mr.Maheshnath.A.

For Respondents : Mr.K.V.Sajeev Kumar
Special Government Pleader - for R1 & R2

J U D G M E N T

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

Since these two appeals arise out of the common order passed by the writ court dated 14.08.2019 in W.P.Nos.16657 and 15242 of 2019, these writ appeals are disposed of by this common order.



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2. Heard the learned counsel for the appellants and Mr.K.V.Sajeev Kumar, learned Special Government Pleader appearing for the respondents. As per G.O.4(D), No.2, Health and Family Welfare (A1) Department dated 15.02.2019, the teaching posts in Government Medical Colleges were reorganized and restructured by sanctioning the post matrix in Government Medical Colleges and Teaching Institutions under the control of DME as per the annexure to the said G.O. After the restructuring of the posts, the procedure for posting the incumbents between the medical side and education side had been made by way of a circular issued in this regard by the Department, which was under challenge in a batch of writ petitions.

3. Those writ petitions were disposed of by the impugned common order dated 14.08.2019, wherein a direction was given based on the recommendation of the Committee constituted in this regard. Accordingly, the respondents have followed the direction given by the learned Judge. However, insofar as the Department of Physiology, such a direction has not been followed is the grievance of the appellant in W.A.No.2917 of 2019.

3. When a similar grievance was espoused before a Coordinate Bench of this Court in W.A.(MD) No.745 of 2023, the said Division Bench of this Court has passed the following order on 06.06.2023.



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" 2. We do not see any real grievance for the appellants, since the earlier order in W.P.(MD) No.15215 of 2019 etc., batch has become final. If the authorities do not want to comply with the earlier order, they must challenge the same. In fact the said order has been complied with in part. The actual reason for not conducting counselling for Microbiology Department and six other Departments is not forthcoming, except to state that it was due to COVID pandemic. Now that the pandemic is over, the Authorities will do well to comply with the earlier order. Hence, this writ appeal fails and it is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed."

4. Learned Senior Counsel appearing for the appellant has pointed out the grievance of the appellant in the said appeal, which reads as follows.

" (i) The directions issued by this Hon'ble Court in batch of writ petitions dated 14.08.2019 to conduct zero counseling for specialty department in which P.G.qualified doctors outnumbering sanctioned posts not followed for Physiology department alone, resulting in violation of High Court order.

(ii) The directions issued to conduct promotion counseling before transfer counseling not followed in Physiology department and thereby number of Assistant Professor in Physiology could not be posted within department in the resultant vacancies after promotion. The fact remains that for all other departments, the promotion counseling conducted prior to transfer counseling."



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5. However, the learned Special Government Pleader appearing for the respondents would contend that, every direction given by the learned Judge through the impugned order has been scrupulously followed and insofar as the Physiology Department also, such direction if at all has not been followed, that would be followed and hereafter it will be strictly followed. The said submission of the learned Special Government Pleader is taken on record and in view of the order of the learned single Judge which is impugned herein and the subsequent Division Bench judgment, where similar grievance has been considered by order dated 06.06.2023, we feel that by giving a direction to the respondents to follow the direction given by the learned Judge to the Physiology Department also as in the case of other departments, W.A.No.2917 of 2019 can be disposed of.

6. Accordingly, there shall be a direction to the respondents to follow the direction given by the learned Judge through the impugned order and in this regard, no discrimination can be shown against any Department and even in respect of the Department of Physiology, the same pattern shall be followed as directed by the learned Judge through the impugned order in respect of retaining or transferring incumbents hereafter.

7. Insofar as W.A.No.3093 of 2019 is concerned, the learned Special Government Pleader has pointed out that, at the time of admission of the writ appeal, a Division Bench of this Court has recorded the stand taken by the



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respondents, which reads thus,

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" 5. On this day, when the appeals are listed for hearing, on behalf of the learned Special Government Pleader, representation has been made insofar as Dr.Ashwini and five others (Physiology) are concerned, they would be retained in DME side and insofar as Dr.M.R.K.Rajaselvam is concerned, he has joined the transferred place. Submission is placed on record."

8. Therefore, their grievance has already been addressed at the admission stage itself and nothing survives in this appeal and the said decision of the respondents since has been reiterated even now, we feel that W.A.No.3093 of 2019 also can be disposed of. Accordingly, by giving a direction in respect of W.A.No.2917 of 2019 and recording the statement of the learned Special Government Pleader in respect of W.A.No.3093 of 2019, these writ appeals are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

(R.S.K.,J.) (G.A.M.,J.)

11.12.2023

Index : Yes/No
Internet : Yes/No
KST



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To

- 1.The Secretary to Government
Health and Family Welfare Department
Fort St.George, Chennai - 600 009.
- 2.The Director of Medical Education
Kilpauk, Chennai 600 010.



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R.SURESH KUMAR, J.
and
G.ARUL MURUGAN, J.

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