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W.P.No.26238 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.26238 of 2023

Anto Prabeena

... Petitioner

Vs.

1.The Secretary to Government,
Health and Family Welfare Department,
Fort St. George, Chennai – 600 009.

2.The Director of Medical Education,
Kilpauk, Chennai – 10.

3.The Director,
Public Health & Preventive Medicine,
DMS Compound, Chennai – 6.

4.The Director of Medical Health and Rural Services,
DMS Compound, Chennai – 6.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the respondents in connection with the impugned order passed by the 2nd respondent in Ref. No. 54055/ N1/ 2023 dated 5.06.2023 quash the same and direct the respondents to consider the claim of the petitioner for a transfer to any one of the hospitals in Colachal or any hospital in Kanyakumari District within a reasonable time frame.



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For Petitioner : Mr.K.Venkatramani
Senior Counsel
for Mr.M.Muthappan

For Respondents : Mr.V.Jeevagiridharan
Additional Government Pleader

ORDER

This writ petition has been filed challenging the order of the 2nd respondent, dated 05.06.2023, rejecting the request of the petitioner to transfer her to Kanyakumari District.

2.It is the case of the petitioner that she is working as Staff Nurse under the respondent Department and she submitted her representation for transfer to Kanyakumari Medical College Hospital, Kanyakumari. Since the same was not considered, the petitioner approached this Court by way of writ petition in W.P.No.30384 of 2022. Pursuant to the orders of this Court in W.P.No.30384 of 2022, dated 16.11.2022, and Cont.P.No.1058 of 2023, dated 01.08.2023, now the 2nd respondent has passed orders on the representation of the petitioner, rejecting the request of the petitioner for transfer. Challenging the same, the present writ petition has been filed.



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3.The main contention of the learned Senior Counsel appearing for the petitioner is that, even after the directions of this Court in earlier writ petition in W.P.No.30384 of 2022, dated 16.11.2022, five vacancies had arisen in the District of Kanyakumari, however, the same have been filled up for some other reasons and despite the directions of this Court, the petitioner has not been considered deliberately and the impugned order has been passed as if there is no vacancy available in Kanyakumari District. Hence, the learned Senior Counsel prayed that the impugned order has to be set aside and the petitioner may be transferred to any Hospital in Kanyakumari District.

4.Heard Mr.V.Jeevagiridharan, learned Additional Government Pleader, who takes notice for the respondents.

5.This Court is of the view that a Government Servant, as a matter of right, cannot seek his choice of place to work. Transfer, being a condition of service and incident of service, one cannot contend that he should be posted or allowed to retain in a particular place. Government Servants are at the disposal of the Government. Their services might be



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utilized anywhere by the Government and they are supposed to work in the Station as ordered by the Government. However, having regard to the fact that the petitioner has been deserted by her husband and her son is undergoing treatment, if really there is any vacancy in Kanyakumari District or in the event of any vacancies arising in future, the authorities shall consider the case of the petitioner on humanitarian grounds and pass appropriate orders.

6. With the above direction, this writ petition is disposed of. No costs.

08.09.2023

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Internet : Yes

Index : Yes / No

Neutral citation : Yes / No

Speaking order / Nonspeaking order



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N. SATHISH KUMAR, J.
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