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W.P.No.26329 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.26329 of 2023

and

W.M.P.No.25738 of 2023

Dr.M.Gajalakshmi

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented 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.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the respondents to pass orders for transferring and posting the petitioner to the post of Senior Resident in ENT in Government Medical College, Salem, based on the seniority of the petitioner, in the arising vacancy during the counseling held on 02.08.2023, in consideration of representations submitted by the petitioner, dated 03.08.2023 and 07.08.2023, within a time frame to be fixed by this Court.



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For Petitioner : Mr.G.Sankaran
Senior Counsel
for Mr.S.Nedunchezhiyan

For R1 and R2 : Mr.P.Baladhandayutham
Special Government Pleader

ORDER

This writ petition has been filed to direct the respondents to pass orders for transferring and posting the petitioner to the post of Senior Resident in ENT in Government Medical College, Salem, based on the seniority of the petitioner, in the arising vacancy during the counseling held on 02.08.2023, in consideration of representations submitted by the petitioner, dated 03.08.2023 and 07.08.2023, within a time frame to be fixed by this Court.

2.The petitioner states that, though he has been qualified with P.G. Degree in M.S.(ENT), he has been given posting in General Surgery Department in Villupuram Medical College, however, he has been deputed to ENT Department on work arrangement. It is the case of the petitioner that, as per the report of the Committee constituted to implement G.O.(4D) No.2, Health and Family Welfare Department, dated 15.02.2019, as regards restructuring of teaching post in Directorate of Medical Education



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in accordance with MCI norms, the Doctors posted in non-parent

Department are required to be transferred and posted in the parent

Department. It is the grievance of the petitioner that, since he has been

posted in non-parent Department, i.e., General Surgery, he has to be

posted in his parent Department, i.e., ENT Department. The 2nd

respondent notified transfer counseling for the post of Assistant

Professor/Junior Resident in all specialties vide Circular dated 27.07.2023

and the counseling was conducted on 02.08.2023. However, as on the

date of counseling, only two vacancies were notified for ENT Department

and therefore, no vacancy was available to the petitioner for his turn.

However, as per the Government orders, the 2nd respondent can conduct

re-counseling for filling up the vacancies arising as a result of the

counseling. Accordingly, on 03.08.2023, when the counseling for other

specialties was conducted, the petitioner participated in anticipation of

arising vacancy in ENT. One Dr.Prabhakaran, qualified with M.S.(Ortho),

earlier posted in the ENT Department in Salem Medical College, had

opted for posting in his parent Department (Ortho) in the vacancy at

Kallakurichi Medical College. Since he has opted to his parent

Department (Ortho), a resulting vacancy arose in the Department of ENT

in Salem Medical College.



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3.However, it is the grievance of the petitioner that his request for transfer and posting in his parent Department (ENT) in Salem Medical College in the resultant vacancy, was not considered on the ground that one Dr.Gnanavel, who is senior to the petitioner in Sl.No.35 in the Seniority List, though not opted for Salem Medical College in ENT Department, has filed a writ petition in W.P.No.15392 of 2022 requesting for posting in Salem Medical College and unless or otherwise he withdraws the said writ petition, the claim of the petitioner would not be considered. Therefore, citing the prejudice caused to the petitioner due to the pendency of the writ petition filed by the said Dr.Gnanavel, the present writ petition has been filed seeking for positive directions.

4.However, today, when the matter is taken up for hearing, the learned Senior Counsel appearing for the petitioner, submits that the writ petition in W.P.No.15392 of 2022, filed by the said Dr.Gnanavel, has been withdrawn by him and therefore, there is no difficulty in posting the petitioner in his parent Department, i.e., ENT in Salem Medical College.



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5.Mr.P.Baladhandayutham, learned Special Government

Pleader, who takes notice for the respondents 1 and 2, fairly submitted that, since the writ petition in W.P.No.15392 of 2022 has been withdrawn, the respondent will consider the representations of the petitioner, dated 03.08.2023 and 07.08.2023 and pass orders on merits.

6.In view of the submissions made by the learned counsel on either side, the respondents are directed to pass appropriate orders, on merits and in accordance with law, in the light of the subsequent development, viz., the withdrawal of the writ petition in W.P.No.15392 of 2022 filed by Dr.Gnanavel, within a period of one month from the date of receipt of a copy of this order.

7.With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

08.09.2023

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Internet : Yes

Index : Yes / No

Neutral citation : Yes / No

Speaking order / Nonspeaking order

N. SATHISH KUMAR, J.



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