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W.P.Nos.31570, 31592 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE P. DHANABAL

W.P.Nos.31570, 31592 of 2023 and

WMP Nos.31201 to 31203 of 2023 and

WMP Nos.31219 to 31221 of 2023

In W.P.No.31570/2023

1. Dr.V.Madhubala
2. Dr.Sowmya Sampath

... Petitioners in
W.P.No.31570/2023

In W.P.No.31592/2023

1. Dr.R.Anuradha
2. Dr.M.P.Saraswathy
3. Dr.A.Sathish Selva Kumar
4. Dr.T.Rajathilagam
5. Dr.Vijayakumar A.E.
6. Dr.Suma Elangovan
7. Dr.K.Monicka
8. Dr.K.Radhika

... Petitioners in
W.P.No.31592/2023

Vs.



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1. The Union of India,
Rep. by its Secretary,
Ministry of Labour and Employment,
Shram Shakthi Bhawan, Rafi Marg,
New Delhi 110 001.
2. The Director General,
Employees' State Insurance Corporation,
Panchdeep Bhawan, Comrade Indrajeet Gupta (CIG) Marg,
New Delhi 110 002.
3. The Deputy Director (Medical Administration),
Employees' State Insurance Corporation,
Panchdeep Bhawan, Comrade Indrajeet Gupta (CIG) Marg,
New Delhi 110 002.
4. The Dean, ESIC Medical College & Hospital,
K.K.Nagar, Chennai 600 078.
5. The Registrar, Central Administrative Tribunal,
Chennai Bench, Chennai 600 104.

... Respondents in
both writ petitions

Prayer in W.P.No.31570/2023: Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari to call for the records relating to the impugned order passed by the Tribunal in O.A.No.493/2023, dated 18.10.2023, confirming the impugned order issued by the third respondent in Office Order No.62/2023, dated 20.05.2023 and to quash the same, in so far as the petitioners are concerned.



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Prayer in W.P.No.31592/2023: Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari to call for the records relating to the impugned order passed by the Tribunal in O.A.No.491/2023, dated 18.10.2023, confirming the impugned order issued by the third respondent in Office Order No.62/2023, dated 20.05.2023 and to quash the same, in so far as the petitioners are concerned.

In both writ petitions

For petitioners : Mr.P.Wilson, Senior Counsel
for Mr.S.Nedunchezhiyan

For Respondents : Mr.A.R.L.Sundaresan,
Additional Solicitor General
for Mr.R.Sidharth, Central Govt.Counsel
for first respondent
Mr.K.Prabhakaran, Standing Counsel
for respondents 2 to 4.

COMMON ORDER

(Order of the Court was delivered by D.KRISHNAKUMAR, J.)

Challenging the orders passed by the Tribunal in O.A.Nos.491 and 493/2023 dated 18.10.2023, confirming the impugned transfer order passed by the third respondent in office order dated 62/2023, dated 20.05.2023, the present writ petitions have been filed.



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2. The learned Assistant Solicitor General takes notice for the respondents and by consent of both the counsel, this matter has been taken up for final disposal at the admission stage itself.

3. The facts and circumstances of the case and the issues involved in these writ petitions are one and the same and hence, they were disposed of by way of this common order.

4. The brief facts leading to the filing of the present writ petition is as follows.

The petitioners herein were appointed as Teaching Faculty in Employees' State Insurance Corporation(ESIC) Medical College, K.K.Nagar, Chennai, based on the 'institution based' and 'post based' in the year 2011 and 2014, on the basis that the selection is made for the particular teaching post in the respective teaching institution. In such circumstances, violating the terms of appointment and condition of service, the third respondent had issued the impugned transfer order, dated 20.05.2023, transferring the petitioners to other Medical Colleges located in other States,



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4.2. On the recommendation of the Transfer Committee, the third respondent had issued the impugned transfer order dated 20.05.2023, whereby, the petitioners are sought to be transferred to ESIC Medical Colleges, located in other States. The transfer policy contains clause for submitting grievance against the transfer, if any, to be submitted by the Medical Officer through email to be considered by the Transfer Grievance Redressal committee. Though the petitioners have submitted their grievance separately against the order of transfer, it was not considered by the respondents. Therefore, they filed original petitions before the Tribunal, challenging the impugned transfer orders. However, the Tribunal has not appreciated the rules of recruitment and the condition of appointment, based on which the petitioners were selected and appointed as teaching faculty and has dismissed the petitions filed by the petitioners. Challenging the orders passed by the Tribunal, the present writ petitions have been filed.

5. The learned senior counsel appearing for the petitioners submitted that, as per clause 12 of the Transfer policy, dated 20.06.2022, the petitioners have submitted their grievance separately before the Transfer



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Grievance Redressal committee, as against the impugned transfer order, however, it has not been considered by them. Further, he fairly submitted before this Court that, since the grievance made by the petitioners are still pending before the Transfer grievance Reddressal Committee, without going into the merits of the order passed by the Tribunal, it is suffice to direct the said Committee to consider the representations/grievances made by the petitioners, within a stipulated time, as directed by this Court.

6. The learned Additional Solicitor General appearing for the respondents submitted that, as per the transfer policy, the respondents are having every right to pass the transfer order, transferring the medical officers from one institution to another institution and also from one State to another State. He further submitted that, the grievances/representations made by the petitioners will be considered by the Transfer Grievance Redressal Committee, on its own merits and in accordance with law, within a time frame, as stipulated by this Court.



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7. Considering the fact that the grievance/representation made by the petitioners are still pending before the Transfer Grievance Redressal Committee and also the submission made by the learned counsel for both side, without going into the merits of the case, we direct the second respondent to give necessary instructions to the said Committee, which is under their control, to consider the petitioners' grievances/representations and take appropriate decision independently, on its own merits and in accordance with law, without influencing any of the observations made by this Court in this order, within a period of two weeks from the date of receipt of a copy of this order. Further, if the petitioners are having any additional particulars, the same shall be submitted to the said committee, within two days from the date of receipt of a copy of this order. Status-quo to be maintained, till the date of orders passed by the Transfer Grievance Redressal Committee on the grievances/representations made by the petitioners.



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(D.K.K.J.) (P.D.B.J.)

03.11.2023

Internet: Yes/No

Index : Yes/No

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To

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Shram Shakthi Bhawan, Rafi Marg, New Delhi 110 001.
3. The Director General,
Employees' State Insurance Corporation,
Panchdeep Bhawan, Comrade Indrajeet Gupta (CIG) Marg,
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5. The Dean, ESIC Medical College & Hospital,
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D.KRISHNAKUMAR, J.

and

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