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WP Nos.32658, 32662 and 32669 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P. DHANABAL

WP Nos.32658, 32662 and 32669 of 2023

Dr.Anandhi Lakshmanan

... Petitioner

versus

1.Employees State Insurance Corporation (ESIC)

Panchdeep Bhavan,C.I.G. Road,

New Delhi-110 002.

Represented by its Director General

... First respondent in
WP Nos.32658, 32662
and 32669 of 2023

2.The Chairman,

Employees State Insurance Corporation (ESIC),

Panchdeep Bhavan, C.I.G.Road,

New Delhi-110 002.

... Second respondent in
WP Nos.32658, 32662
and 32669 of 2023

3.The Deputy Director (Medical Administration)

Employees State Insurance Corporation (ESIC)

Panchdeep Bhavan, C.I.G. Road,

New Delhi-110 002.

...Third respondent in
WP Nos.32658, 32662



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4. Employees State Insurance Corporation, Regional Office,
Panchdeep Bhawan, 143, Sterling Road,
Nungambakkam, Chennai- 600 034.

Fourth respondent in
WP No.32658
Fifth respondent in
WP Nos. 32662
and 32669 of 2023

5. The Grievance Redressal Committee,
Represented by its Chairman/Finance
Commissioner
Panchdeep Bhavan, C.I.G. Road,
New Delhi-110 002,
Represented by its Director General

Fourth respondent in
WP Nos. 32662
and 32669 of 2023

6. The Employees State Insurance Corporation
Medical College & PGIMSR
Represented by its Dean,
Ashok Pillar Main Road,
K.K.Nagar,
Chennai-600 078.

Fifth respondent in
WP No.32658
Sixth respondent in
WP Nos. 32662
and 32669 of 2023

PRAYER in WP No.32658 of 2023: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorarified Mandamus, to call for the records pertaining to the common order passed in OA No.475 of 2023 dated 18.10.2023 on the file of the Central Administrative Tribunal, Madras Bench and quash the same and consequently direct the respondents to retain the petitioner in the fifth respondent college in the post of Associate Professor (Microbiology).



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PRAYER in WP No.32662 of 2023: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorari to call for the records pertaining to the report of the fourth respondent in Order Nos.59/2023 to 65/2023 dated 11.10.2023 and quash the same.

PRAYER in WP No.32669 of 2023: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorari to call for the records pertaining to the relieving order in File No.512/A/22/13/2022/Admn (Posting/Transfer) dated 11.11.2023.

For the Petitioner :Mr.Vijayanarayan
Senior Counsel
for N.S.Amogh Simha
M.Ashwin Kumar
G.Raakkesh

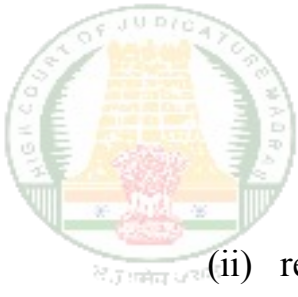
For the Respondents :Mr.A.R.L.Sundaresan
Additional Solicitor General of Indian
for Mr.K.Prabakar
Standing Counsel for ESI
for respondents 1 to 5

COMMON ORDER

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

These writ petitions have been filed by the petitioner challenging (i)

the common order passed in OA No.475 of 2023, dated 18.10.2023, on the file of the Central Administrative Tribunal, Madras Bench,



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(ii) report of the Chairman/Finance Commissioner of the Grievance Redressal Committee dated 11.10.2023 and;

(ii) relieving order dated 11.11.2023 passed by the Dean, The Employees State Insurance Corporation Medical College & PGIMSR.

2. By consent of the parties, these writ petitions are taken up for final disposal at the admission stage itself.

3. Brief facts of the case:

3.1. The petitioner is a doctor in ESIC Medical College, Chennai. On 20.05.2023, the Deputy Director (Medical Administration) Employees State Insurance Corporation (ESIC) has issued a transfer order, transferring her to ESIC Medical College, Bangalore. The petitioner has sent an email dated 25.05.2023 to the Transfer Grievance Redressal Committee requesting them to retain her in the respondent college since her husband has cardiac problems and requires constant medical attention due to health related ailments.



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3.2. In the meanwhile, she had filed an original application before the Central Administrative Tribunal in OA No.475 of 2023 seeking to set aside the impugned order of transfer dated 20.05.2023. The Tribunal, by a common order dated 18.10.2023, dismissed the said OA with liberty to the petitioner and similar placed persons to pursue their grievance before the Transfer Grievance Redressal Committee.

3.3. After the dismissal of the said OA, the petitioner has submitted a letter dated 30.10.2023 to the Transfer Grievance Redressal Committee requesting them to consider her application dated 25.05.2023 and retain her in the respondent College. On 11.11.2023, the petitioner received a relieving order from the Dean of the respondent College. On enquiry, the petitioner came to know about the report of the Transfer Grievance Redressal Committee submitted on 11.10.2023, not recommending the case of the petitioner to the Medical Board and also the order dated 10.11.2023 of the Deputy Director (Medical Administration) Employees State Insurance Corporation (ESIC). Aggrieved by the same, she has filed the present writ petitions.



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4. Heard the parties and perused the materials available on record.

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5. Mr.Vijaynarayan, learned Senior Counsel appearing for the petitioner submits that the case of similarly placed persons was considered by the Transfer Grievance Redressal Committee and the concerned persons or their respective spouse were asked to appear before the Medical Board. Based on the recommendation of the Medical Board, transfer order of those persons were cancelled. Even though the petitioner had made a specific request to the Transfer Greivance Redressal Committee that her husband is suffering from Cardiac problems and that he requires constant medical attention due to health related ailments, the Grievance committee, without giving her an opportunity requiring her to appear before the Medical Board with spouse, has prepared its Report and on the basis of the said report, the petitioner was issued relieving order. The petitioner had requested the respondent to cancel the impugned transfer order, which was issued on the basis of the Report of the Transfer Grievance Redressal Committee, prepared without referring her to the Medical Board, as in the case of similarly placed persons. Therefore, learned Senior Counsel for the



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petitioner would submit that it would be suffice if a direction is given to the Transfer Grievance Redressal Committee to refer petitioner's case before the Medical Board and ask the petitioner and her spouse to appear before the Medical Board and based on the report of the Medical Board, the Transfer Grievance Committee may recommend the matter to the competent authority. Thereafter, the competent authority may take a decision based on the recommendation of the Transfer Grievance Redressal Committee.

6. In reply to the aforesaid request made by the learned Senior Counsel for the petitioner, Mr. AR.L. Sundaresan, learned Additional Solicitor General of India appearing for the respondents, strongly objected to the said request of the petitioner by stating that the writ petitioner has already been relieved on 11.11.2023 and she has applied for leave. Therefore, there is no case for reconsideration of the said request made by the petitioner. He further stated that on merits, there is no necessity warranting interference with the order passed by the Deputy Director (Medical Administration) Employees State Insurance Corporation (ESIC).



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7. In view of the said submission made by the parties concerned, we are inclined to pass orders as follows:

(i) The Transfer Grievance Redressal Committee shall reconsider the petitioner's application dated 25.05.2023 and direct the petitioner and her husband to appear before the Medical Board, within a period of one week from the date of receipt of a copy of this order.

(ii) On receipt of such notice from the Transfer Grievance Redressal Committee, the petitioner and her husband shall appear before the Medical Board on the date fixed by the Medical Board.

(iii) The Medical Board shall submit a report before the Transfer Grievance Redressal Committee within a period of two weeks thereafter and based on the said report, the Transfer Redressal Grievance Committee shall take appropriate decision and forward the said decision to the competent authority, and the competent authority shall pass the final order within a period of two weeks therefrom.



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8. With the above directions, the writ petitions stand disposed of.

There will be no order as to costs. Consequently, WMP Nos.32263, 32264, 32266 and 32269 of 2023 are closed.

[D.K.K., J.] [P.D.B., J.]
17.11.2023

Index : Yes/No
Neutral Citation : Yes/No
mrn

To

1. The Director General

Employees State Insurance Corporation (ESIC)D
Panchdeep Bhavan,C.I.G. Road,
New Delhi-110 002.

2.The Chairman,

Employees State Insurance Corporation (ESIC),
Panchdeep Bhavan, C.I.G.Road,
New Delhi-110 002.

3.The Deputy Director (Medical Administration)

Employees State Insurance Corporation (ESIC)
Panchdeep Bhavan, C.I.G. Road,
New Delhi-110 002.

4.Employees State Insurance Corporation, Regional Office,

Panchdeep Bhawan, 143, Sterling Road,
Nungambakkam, Chennai- 600 034.

D.KRISHNAKUMAR, J.

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and
P. DHANABAL, J.

(mrn)

5. The Chairman/Finance Commissioner
The Grievance Redressal Committee,
Panchdeep Bhavan, C.I.G. Road,
New Delhi-110 002,
Represented by its Director General

6. The Dean,
The Employees State Insurance Corporation
Medical College & PGIMSR
Ashok Pillar Main Road,
K.K.Nagar,
Chennai-600 078.

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