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W.P. Nos. 1013, 1371 and 1373 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2023

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. Nos. 1013, 1371 and 1373 of 2023

and

W.M.P. Nos. 997, 998, 1439, 1440, 1442 and 1443 of 2023

W.P. No. 1013 of 2023

Dr. Jayaprakash Narayanan. K

... Petitioner

-VS-

1. The State of Tamil Nadu,
Rep. By the Secretary,
Health and Family Welfare (A1) Department,
Fort St. George,
Chennai – 600 009.
2. The Director of Medical Education,
No. 162, Poonamallee High Road,
Opposite MJRC Clinic,
New Bupathy Nagar,
Chetpet, Chennai,
Tamil Nadu – 600 031.
3. The Director of Medical and Rural Health Services,
No. 359, Anna Salai,
Teynampet,
Chennai, Tamil Nadu – 600 006.
4. Dr. Chengalvarayan. G.

... Respondents



W.P. Nos. 1013, 1371 and 1373 of 2023

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the First Respondent in connection with the First Respondent's order dated 14.11.2022 in GO (D) No. 1212 and quash the same direct the First and Second Respondents to forbear from promoting the Fourth Respondent as an Associate Professor of Urology from the promotion panel for the year 2017-2018.

For Petitioner : Mrs. Mythili Srinivas

For Respondents : Mr. B.Vijay,
Additional Government Pleader
(for R1 to R3)

Mr. K.Venkatramani, Senior Counsel
for Mr. A.Mohammed Ismayil (for R4)

W.P. No. 1371 of 2023

1. Dr. P.Senthil Kumar
2. Dr. S.Rajasekar

... Petitioners

-VS-

1. The State of Tamil Nadu,
Rep. By the Secretary,
Health and Family Welfare (A1) Department,
Fort St. George,
Chennai – 600 009.
2. The Director of Medical Education,
No. 162, Poonamallee High Road,
Opposite MJRC Clinic,
New Bupathy Nagar,
Chetpet, Chennai,
Tamil Nadu – 600 031.



W.P. Nos. 1013, 1371 and 1373 of 2023

3. The Director of Medical and Rural Health Services,
No. 359, Anna Salai,
Teynampet,
Chennai,
Tamil Nadu – 600 006.

4. Dr. Chengalvarayan. G.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the First Respondent in connection with the First Respondent's order dated 14.11.2022 in GO (D) No. 1212 and quash the same direct the First and Second Respondents to forbear from promoting the Fourth Respondent as an Associate Professor of Urology from the promotion panel for the year 2017-2018.

For Petitioner

: Mrs. Mythili Srinivas

For Respondents

: Mr. B.Vijay,
Additional Government Pleader
(for R1 to R3)

Mr. K.Venkatramani, Senior Counsel
for Mr. A.Mohammed Ismayil (for R4)

W.P. No. 1373 of 2023

1. Dr. P.Senthil Kumar
2. Dr. S.Rajasekar

... Petitioners

-VS-

1. The State of Tamil Nadu,



W.P. Nos. 1013, 1371 and 1373 of 2023

Rep. By the Secretary,
Health and Family Welfare (A1) Department,
Fort St. George,
Chennai – 600 009.

2. The Director of Medical Education,
No. 162, Poonamallee High Road,
Opposite MJRC Clinic,
New Bupathy Nagar,
Chetpet, Chennai,
Tamil Nadu – 600 031.
3. The Director of Medical and Rural Health Services,
No. 359, Anna Salai,
Teynampet,
Chennai, Tamil Nadu – 600 006.
4. Dr. K.V.Arasi

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the First Respondent in connection with the First Respondent's order dated 14.11.2022 in GO (D) No. 1213 and quash the same as far as the Fourth Respondent is concerned and direct the First and Second Respondents to forbear from promoting the Fourth Respondent as an Associate Professor of Urology from the promotion panel for the year 2018-2019.

For Petitioner : Mrs. Mythili Srinivas

For Respondents : Mr. B.Vijay,
Additional Government Pleader
(for R1 to R3)

Mr. R.Singaravelan, Senior Counsel
for Mr. V.Chandrababhu (for R4)

COMMON ORDER



W.P. Nos. 1013, 1371 and 1373 of 2023

WEB COPY Heard Mrs. Mythili Srinivas, Learned Counsel for the Petitioners, Mr. B.Vijay, Learned Additional Government Pleader appearing for the First to Third Respondents, Mr. K.Venkatramani, Learned Senior Counsel appearing for the Fourth Respondent in W.P. Nos. 1013 and 1371 of 2023 and Mr. R.Singaravelan, Learned Senior Counsel appearing for the Fourth Respondent in W.P. No. 1373 of 2023 and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioners in these Writ Petitions, viz., Dr. Jayaprakash Narayanan.K, Dr. P.Senthil Kumar, S.Rajasekar, and the respective Fourth Respondent in the Writ Petitions, viz., Dr. Chengalvarayan. G and Dr. K.V.Arasi, are Assistant Professors in Tamil Nadu Medical Service and their seniority in that post has been determined in the Civil Medical List published in the year 2022 in furtherance to the order dated 29.04.2022 in W.P. No. 24404 of 2018 etc., batch passed by this Court, and their individual details are shown below:-



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S. No.	Name of the Medical Officer	Civil Medical List CML 2022	Seniority No. as per CML 2022	Qualification month and Year	Date of joining in the Specialty of Urology	Date of completion of 2 years in the Specialty of Urology	Date of completion of two publications
1.	Dr.K.Jayaprakash Narayanan	1114	7	Aug 2007	18.05.2011	17.05.2013	Aug 2017
2.	Dr.P.Senthilkumar	1258	13	Aug 2015	13.08.2015	12.08.2017	Oct 2018
3.	Dr.S.Rajasekar	1412	14	Aug 2008	09.04.2010	08.04.2012	Aug 2018
4.	Dr.K.V.Arasi	1465	17	Aug 2006	01.04.2008	31.03.2010	Mar 2018
5.	Dr.G.Chengalvarayan	1529	18	Aug 2005	17.03.2006	16.03.2008	Dec 2016

The grievance ventilated by the Petitioners is that the Fourth Respondents in these Writ Petitions, viz., Dr. Chengalvarayan. G and Dr. K.V.Arasi, rank below them in seniority in the Civil Medical List, but they have been granted promotion to the higher post of Assistant Professor ahead of them in G.O. (D) Nos. 1212 and 1213, Health and Family Welfare (A1) Department dated 14.11.2022 for the years 2017-2018 and 2018-2019 respectively, which is assailed in this Writ Petition.

3. In response to the said claim made, the First to Third Respondents have pointed out that apart from to the seniority in rank in the Civil Medical List, it is necessary that the candidate should have also completed two research



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publication in indexed / national journal for promotion to the post of Assistant Professor for the relevant year. In this context, reference has to be made to the method of appointment and educational qualification prescribed for the post of Assistant Professor in G.O. Ms. No. 77, Health and Family Welfare Department, dated 23.02.2016 as per the norms of the Medical Council of India (now known as National Medical Commission), which reads as follows:-

“(a) Method of Appointment:-

Appointment to the post shall be made by the promotion from among the holders of the posts of Clinical Assistant Professors.

(b) Qualification:-

No person shall be eligible for appointment to the post unless he/she possess the following qualification:-

- (i) must have obtained P.G. Degree in MS (GS) or DNB (GS) and M.Ch (Uro) (or) DNB (Uro);*
- (ii) must possess teaching experience for a period of not less than 2 years in the specialty;*
- (iii) minimum of two research publications in indexed/ national journals.”*



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4. It has been demonstrated with reference to the aforesaid rule position that the crucial date for the vacancies that arose for the year 2017-2018 was 15.03.2017, and that none of the Petitioners in these Writ Petitions had completed the two research publications in indexed / national journal before that crucial date, and the Fourth Respondent in W.P. Nos. 1013 and 1371 of 2023, viz., Dr. G.Chengalvarayan, who had completed the required publication in December 2016 before the said crucial date, was selected against the vacancies of that year.

5. Similarly it has been highlighted that the Petitioners in W.P. No. 1373 of 2023, viz., Dr. P.Senthilkumar and Dr. S.Rajasekar, had not completed the two research publications in indexed / national journal before the crucial date, viz., 15.03.2018, for the vacancies that arose for the year 2018-2019, and that the Fourth Respondent in that Writ Petition, viz., Dr. K.V.Arasi, who had completed the required publication in March 2018, was selected for that year.

6. Inasmuch as the aforesaid cogent explanation of the First to Third Respondents supported by the materials borne out of the record deserves acceptance, it is not possible to countenance the challenge made to the



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promotions granted to the Fourth Respondent in these Writ Petitions, viz., Dr.

Chengalvarayan. G and Dr. K.V.Arasi, to the post of Assistant Professor for the years 2017-2018 and 2018-2019 respectively.

In the upshot, these Writ Petitions are dismissed. Consequently, the interim orders dated 20.01.2023 in W.M.P. No. 1440 of 2023 in W.P. No. 1371 of 2023 and W.M.P. No. 1443 of 2023 in W.P. No. 1373 of 2023 stand vacated, and the connected Miscellaneous Petition are closed. No costs.

21.04.2023
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Index: Yes/No

Neutral Citation: Yes/No

Note: Issue order copy by 23.06.2023.

To

1. The Secretary to Government of Tamil Nadu,
Health and Family Welfare (A1) Department,
Fort St. George,
Chennai – 600 009.
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W.P. Nos. 1013, 1371 and 1373 of 2023

P.D. AUDIKESAVALU, J.

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3. The Director of Medical and Rural Health Services,
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21.04.2023

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