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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.03.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.6853 of 2023

and

W.M.P.(MD)Nos.6409 & 6410 of 2023

R.Suresh Babu

... Petitioner

vs.

1.The Director of Medical and Rural Health Services (FAC),
Directorate of Medical and Rural Health Services,
Chennai-600 006.

2.The Director of Medical Education,
Directorate of Medical Education,
Chennai-10.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in Ref.No.58485/E2/1/2022, dated 13.03.2023 on the file of the first respondent and quash the same as illegal insofar as not considering the petitioner for promotion to the post of Medical Record Officer for the panel year 2022-23 is concerned and consequently, for a direction, directing the first respondent to include the petitioner in the panel for promotion to the post of Medical Record Officers (MRO) for the year 2022-2023 and promote the petitioner to the post of Medical Record Officer (MRO) within a time period stipulated by this Court.



For Petitioner : Mr.T.Aswin Rajasimman
for M/s.Lajapathi Roy Associates
For Respondents : Mr.G.Suriyananth
Additional Government Pleader

ORDER

With the consent of learned counsel on either side, the writ petition is taken up for final disposal.

2. The writ petitioner joined the Directorate of Medical and Rural Health Services as Junior Assistant in the year 2010. He was promoted to the post of Medical Record Technician on 27.12.2018. His services have since been regularised in the said post also. The next promotional post is that of Medical Record Officer. The petitioner's grievance is that he has not been included in the panel to be considered for being promoted to the said post. The only reason set out for excluding the petitioner from the promotion panel is that the petitioner had not completed his probation. This is evident from Annexure II of the impugned proceedings. Aggrieved by the exclusion, the writ petition came to be filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned proceedings insofar as the petitioner is concerned and for directing the first respondent to include his name in the petition mentioned promotion panel.



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4. The stand of the respondents is that when the particulars were called for from the Government Sivagangai Medical College Hospital, the name of the petitioner was not sponsored and that is why, the petitioner came to be left out.

5. I carefully considered the rival contentions. I am not for a moment questioning the approach adopted by the first respondent. The reason for originally excluding the name of the petitioner from the promotion panel appears to be genuine and well founded. The fact remains that the competent authority namely the Dean, Government Sivagangai Medical College Hospital has issued the proceedings dated 16.03.2023 declaring the completion of the petitioner's probation. It is seen from the said order that the petitioner had completed his probation of two years on 01.01.2021. The crucial date in the present case is 01.01.2022. Applying the doctrine of relation back, the proceedings dated 16.03.2023 will enure to the benefit of the petitioner.

6. In this view of the matter, the exclusion of the petitioner from the petition-mentioned promotion panel is set aside. The respondents are directed to include the petitioner in the promotion panel. It is stated that counselling is to be held on 30.03.2023. The petitioner will be permitted to take part in the promotion counselling. The learned Additional Government Pleader is directed to intimate the first respondent about the passing of this order and the respondents shall not wait for the issuance of the certified copy.



G.R.SWAMINATHAN, J.

rmi

7. The Writ Petition is allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

29.03.2023

rmi

NOTE: Issue Order copy by 02.00 pm today.

To

1. The Director of Medical and Rural Health Services (FAC),
Directorate of Medical and Rural Health Services,
Chennai-600 006.
2. The Director of Medical Education,
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