



W.P(MD)No.7507 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.7507 of 2023

and

W.M.P.(MD)Nos.7000, 7002 & 7003 of 2023

A.L.Meenakshi Sundaram

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Health and Family Welfare (A1) Department,
Secretariat, Fort St.George,
Chennai-600 009.

2.The Director of Medical Education,
Kilpauk, Chennai-600 010.

3.R.Shanthimalar
Director of Medical Education,
Kilpauk, Chennai-600 010.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned government order in G.O.(D)No. 268 of 2023 of Health and Family Welfare (A1) Department, dated 13.03.2023 issued by the first respondent and to quash the same and



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consequently, direct the first respondent to appoint the petitioner as Director of Medical Education on the regular basis in accordance with the provisions of Tamil Nadu Government Servants (Conditions of Service) Act, 2016 by considering his seniority and meritorious status.

For Petitioner : Mr.G.Sankaran, Senior Counsel
for Mr.S.Kanagarajan

For Respondents : Mr.Veerakathiravan
Additional Advocate General
assisted by Mr.K.Balasubramani
Special Government Pleader for R1 & R2

: No appearance for R3

ORDER

The petitioner is presently in the rank of Director of Medical Education (OSD). He seeks appointment as DME on regular basis. Since the third respondent has been appointed as regular DME by the impugned G.O, the same is put to challenge.

2.The learned Senior 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 G.O and grant relief as prayed for.



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3.The respondents 1 and 2 have filed counter affidavit and the learned Additional Advocate General took me through its contents and pressed for dismissal of the writ petition.

4.It is not necessary to deal with all the contentions of the learned Senior Counsel appearing for the petitioner for the simple reason that the writ petition has to be dismissed on a short ground. Appointments to the various posts in State and Subordinate Services are governed by Special Rules. Section 21 deals with Tamil Nadu Medical Service. Rule 8(b) in the said Chapter sets out the special qualifications for the post of Director of Medical Education. Rule 8(b)(iv) stipulates that the candidate must have a minimum of one year left over service prior to date of retirement. The only question that calls for consideration is the mode of reckoning of this period.

5.The crucial date for promotion is 15th of March. In this case, the vacancy arose in the year 2022. The contention of the petitioner's Senior Counsel is that the left over service must be reckoned by taking into account the crucial date. According to him, since the petitioner's



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age of superannuation is 31.08.2023, he is fulfilling the statutory requirement.

6. There is a reason for incorporating the said requirement. The intention of the rule makers is that the person at the helm of affairs must have a minimum period of one year of service. If those at the top have a short tenure, it is not good for administration. Administrative efficiency is predicated on several parameters. One of which is that there should not be change of incumbents at the top often. If the helmsmen have short spells, it is certainly not good for administration. Therefore, the reckoning of the period must be in such a way as to fulfil the said objective. It is true that in this case the crucial date is 15th of March, 2022. But vacancy arose only on 01.11.2022. The petitioner would retire on 31.08.2023. Even if the petitioner had been appointed on 01.11.2022 itself, he would still not have one year of left over service prior to retirement. Therefore, the reckoning of left over service must be with reference to the date when vacancy arises. Ideally, the period must be reckoned with reference to the date of consideration of the panel. If that yardstick is applied, the appointment of the third



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respondent would also be vulnerable. There is a danger of having that yardstick. It would introduce an element of uncertainty and arbitrariness. If the authorities concerned want to exclude an eligible candidate from consideration, they can deliberately postpone the selection process. In matters such as this, there shall be objective criteria. The date of arising of vacancy as well as the date of retirement are objective matters. I, therefore, reject the contention of the petitioner's Senior Counsel that crucial date must be the reckoning date.

7.Since as on 01.11.2022, the petitioner had "left over service" of only ten months he was not considered for promotion. The third respondent fulfilled the criteria. That is why she was selected. Dr.Balajinathan alone could have questioned her appointment. The petitioner lacks the locus standi. I make it clear that non-consideration of the petitioner for promotion does not cast any reflection on his credentials. The order impugned in this writ petition is sustained.



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8.This writ petition is dismissed. No costs. Connected

miscellaneous petitions are also dismissed.

12.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
rmi/skm

To

- 1.The Principal Secretary to Government,
Health and Family Welfare (A1) Department,
Secretariat, Fort St.George,
Chennai-600 009.
- 2.The Director of Medical Education,
Kilpauk, Chennai-600 010.
- 3.R.Shanthimalar
Director of Medical Education,
Kilpauk, Chennai-600 010.



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G.R.SWAMINATHAN, J.

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