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W.P.(MD)NO.15229 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.15229 of 2023

A.Murugan

... Petitioner

Vs.

1. The Commissioner of Indian Medicine and Homeopathy,
Commissionerate of Indian Medicine and Homeopathy,
Chennai – 106.

2. The District Siddha Medical Officer,
Dindigul District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents from including the Pharmacist Post at Government Hospital, Athur, Dindigul District in the list of Vacancies during the general transfer counselling to be held on 26.06.2023 and filling up the same in violation of the Government order in G.O.(2D).No.131 Health and Family Welfare (A1) Department dated 20.11.2007.

For Petitioner : Mr.T.Aswin Rajasimman,
for M/s.Lajapathi Roy and Associates.

For Respondents : Mr.G.Suriyananth,
Additional Government Pleader.

**ORDER**

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Heard the learned counsel on either side.

2. The petitioner is working as Pharmacist. He was posted at Thandikudi which is a hill area in the year 2013. On 21.04.2023 diversion order was issued and that the petitioner was directed to work at Government Hospital, Athur, Dindigul. His grievance is that in the transfer counselling to be held today, Athur is shown as vacant place. The learned counsel's contention is that Thandikudi should be shown as vacant place and not Athur.

3. My attention is drawn to G.O.(2D)No.131 Health and Family Welfare (A1) Department dated 20.11.2007. Clause 4 of the said Government Order states that promotion or transfer shall be considered for the following categories only:-

“Vacancies arising due to

- retirement including voluntary retirement
- death
- promotion of incumbents



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- newly created posts and
- administrative transfer

4. The argument of the learned counsel appearing for the petitioner is that indicating Athur is a vacant place is contrary to the aforesaid Government Order. He also reiterated the other contentions set out in the affidavit filed in support of the writ petition and called upon this Court to interfere in favour of the petitioner.

5. I am not persuaded by the submission of the petitioner. It is clarified that on 21.04.2023, the petitioner was not transferred from Thandikudi to Athur. It was only a diversion order. The implication of diversion order is that the petitioner will not be given TA/DA. The petitioner's identity is tied only to the place from where he was diverted. In other words, the petitioner continues to draw salary only from Thandikudi. The learned Additional Government Pleader also pointed out that the petitioner is still drawing hill allowance.

6. Only if the petitioner had been transferred from Thandikudi to Athur, Dindigul District, Thandikudi could be shown as a vacant place.



Since the petitioner was only diverted to work at Athur and he has not been formally transferred from Thandikudi, Athur is shown as vacant place. Athur is a place where the petitioner had been diverted. In consonance with the aforesaid Government Order, I sustain the stand of the respondents. This writ petition stands dismissed.

7. Dismissal of the writ petition will not come in the way of the petitioner from participating in the counselling process which is scheduled to be held at 11.00 a.m. today. The petitioner placed his request for being considered for regular post by way of transfer to Athur. Sri.Ganesan, Assistant who came to assist the learned Additional Government Pleader, is directed to inform the contents of this order to the first respondent without waiting for order copy. No costs. Consequently, connected miscellaneous petition is closed.

26.06.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No
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To:

1. The Commissioner of Indian Medicine and Homeopathy,
Commissionerate of Indian Medicine and Homeopathy,
Chennai – 106.
2. The District Siddha Medical Officer,
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G.R.SWAMINATHAN,J.

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