



W.P.(MD).No.18541 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.08.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.18541 of 2023

K.Sulthan Ibrahim

... Petitioner

Vs.

1.The Director,
Public Health and Preventive Medicine,
DMS Complex,
Anna Salai,
Chennai-600 006.

2.The Deputy Director of Health Services,
Government Multipurpose Complex,
Annexure-II, Collectorate,
Theni.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st respondent to pass appropriate orders on the recommendation of the 2nd respondent in Na.Ka.No.2001/A3/2023 dated 10.07.2023 within a time frame as may be stipulated by this Court consequentially direct the 1st respondent to transfer and accommodate the petitioner in the existing vacancy of Health Inspector Grade - I in the office of 2nd respondent.

For Petitioner : Mr.J.Pooventhera Rajan



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For Respondents : Mr.N.Muthu Vijayan
Special Government Pleader

ORDER

The present writ petition has been filed seeking direction to the 1st respondent to pass appropriate orders on the recommendation of the 2nd respondent in Na.Ka.No.2001/A3/2023 dated 10.07.2023 within a time frame as may be stipulated by this Court consequentially direct the 1st respondent to transfer and accommodate the petitioner in the existing vacancy of Health Inspector Grade - I in the office of 2nd respondent.

2. The petitioner was appointed as Multipurpose Health Worker at Kuppanasaripatti Primary Health Centre, Theni District vide order, dated 24.11.2014. He joined service with effect from 01.12.2014. He completed his probation period on 30.11.2016. He was promoted as Health Inspector Grade-I on 19.12.2022. The 1st respondent called for general counselling for transfer, for the year 2023 on 01.04.2023. The petitioner participated in the general counselling held on 15.05.2023 and opted for the vacancy in Jangalpatti Primary Health Centre, Theni District. On that basis, the 1st respondent transferred the petitioner to the existing vacancy at Jangalpatti Primary Health



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Centre, Theni District vide his order, dated 21.05.2023. While so, the 1st respondent over phone informed the petitioner that there is no sanctioned post of Health Inspector Grade – I at Jangalpatti Primary Health Centre, Theni District and directed the petitioner to make an application for an existing vacancy in the office of the 2nd respondent which is at Theni. Accordingly, the petitioner made an application before the 2nd respondent to transfer him to the existing vacancy in the office of the 2nd respondent. The 2nd respondent vide his letter, dated 10.07.2023 requested the 1st respondent to pass appropriate orders in the light of the petitioner's request. However, the 1st respondent did not pass any orders. Hence, this writ petition came to be filed.

3. The learned Special Government Pleader on written instructions submitted that the petitioner got relieving order from the place where he is working currently at Pazhani only on 20.07.2022 and he was able to reach the District of Theni for joining only after that. As a result of which, there was no vacancy in Theni/2nd respondent's office and hence, the transfer granted to the post in Jangalpatti is cancelled and he was directed to continue his service in the existing place at Pazhani.

4. Heard Mr.J.Pooventhera Rajan, learned counsel for the petitioner and Mr.N.Muthuvijayan, learned Special Government Pleader for the respondents.



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5. The instructions given to the learned Special Government Pleader is an improper one. When the petitioner is awaiting for appropriate orders from the 1st respondent to get a transfer order to the existing vacancy in the 2nd respondent office at Theni, the question of getting relieving order by the petitioner on 20.07.2023 and going late for joining in the transferred place will not arise. Hence, considering the evasive instruction given by the respondents to the learned Special Government Pleader to be submitted before this Court, this Court directs the 1st respondent to pass an immediate transfer order to transfer the petitioner to the 2nd respondent office observing that the entire transfer exercise made by the respondents are vitiated by mala fides.

6. In view of the above, this Writ Petition stands allowed. No costs.

03.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No

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L.VICTORIA GOWRI, J.

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