



W.P.(MD).Nos.3672, 19935 of 2015 and 23765 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 21.11.2023

CORAM

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD).Nos.3672, 19935 of 2015 and 23765 of 2016
and

M.P.(MD).Nos.1, 1, 2 and 2 of 2015 and W.M.P.(MD).No.17092 of 2016

W.P.(MD).No.3672 of 2015

Dr.G.Vasuki

.. Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by its Secretary,
Health and Family Welfare Department,
Fort St.George,
Chennai - 9.

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

3.The Director of Public Health
and Preventive Medicine,
Chennai - 600 006.

4.Dr.P.Sangeetha

5.Dr.J.Chris Angel

.. Respondents



W.P.(MD).Nos.3672, 19935 of 2015 and 23765 of 2016

PRAAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, calling for the records relating to impugned proceedings in R.No.61684/E5/A2/2014 dated 07.01.2015 of the 3rd respondent herein insofar as counting the service or 10(a) (1) appointment period for promotion and the consequential proceedings in Ref.No.88967/E1/5/2014 dated 04.03.2015 of the 2nd respondent herein insofar as including all the 10(a) (i) appointees such as 4th and 5th respondents in the regular panel and temporary promotion panel for the post of Associate Professors in Physiology Department and quash the same and consequently direct the respondents 1 to 3 herein to regularize the service of all the 10(a)(i) appointees from the date of passing TNPSC examination and prepare the panel for promotion for the post of Associate Professors in Physiology Department.

For Petitioner : Mr.T.Pon Ramkumar

For R-1 to R-3 : Mr.T.Amjad Khan
Government Advocate

For R-4 and R-5 : No appearance

W.P.(MD).No.19935 of 2015

Dr.G.Vasuki

.. Petitioner

Vs.

1.The Government of Tamil Nadu,
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2.The Director of Medical Education,
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Chennai - 600 010.

3.The Director of Public Health
and Preventive Medicine,
Chennai - 600 006.

4.Dr.J.Chris Angel

5.Dr.M.Vijayalakshmi

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, calling for the records relating to impugned Government Order in G.O.(D)No.1291 dated 14.10.2015 Health and Family Welfare (A1) Department of the 1st respondent herein insofar as respondents 4 and 5 alone concerned and quash the same and consequently direct the respondents 1 to 3 herein to regularize the service of all the 10(a)(i) appointees from the date of passing TNPSC examination and prepare the panel for promotion for the post of Associate Professors in Physiology department by counting 5 years service as Assistant Professor in Physiology department from the date of passing TNPSC examination.

For Petitioner : Mr.T.Pon Ramkumar

For R-1 to R-3 : Mr.T.Amjad Khan
Government Advocate

For R-5 : Mr.D.Srinivasa Raghavan



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W.P.(MD).No.23765 of 2016

Dr.G.Vasuki

.. Petitioner

Vs.

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Represented by its Secretary,
Health and Family Welfare Department,
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Chennai - 9.

2.The Director of Medical Education,
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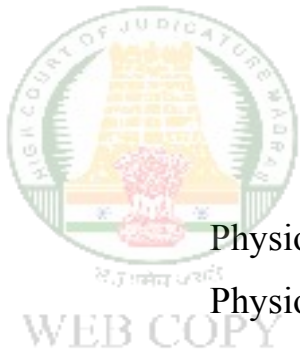
4.Dr.A.B.Bashkar

5.Dr.H.R.Hari Babu

6.Dr.M.Sivaraj

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, calling for the records relating to impugned Government Order in G.O.(D)No.1691 Health and Family Welfare (A1) Department dated 25.11.2016 of the 1st respondent herein insofar as respondents 4 to 6 alone concerned and quash the same and consequently direct the respondents 1 to 3 herein to regularize the service of all the 10(a)(i) appointees from the date of passing TNPSC examination and prepare the panel for promotion for the post of Associate Professors in



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Physiology department by counting 5 years service as Assistant Professor in Physiology department from the date of passing TNPSC examination.

For Petitioner : Mr.T.Pon Ramkumar

For R-1 to R-3 : Mr.T.Amjad Khan
Government Advocate

For R-4 to R-6 : No appearance

COMMON ORDER

The present Writ Petitions are filed challenging the proceedings of the third respondent dated 07.01.2015 and the Government Order in G.O. (D)No.1291 dated 14.10.2015 and the Government Order in G.O.(D)No. 1691 dated 25.11.2016.

2. The petitioner completed her MBBS course in the year 2003-04. She wrote the TNPSC examination and was appointed as a tutor on 04.08.2006. After completing the three years of mandatory service, the petitioner joined the Tirunelveli Medical College for undergoing M.D., in Physiology. She completed the course in the year 2012 and joined as an Assistant Professor in Physiology Department on 25.04.2012. The petitioner, in order to be promoted to the next post of Associate Professor,



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would have to serve five years as an Assistant Professor. The petitioner concedes, even in the affidavit, that she is entitled to be promoted to the post of Associate Professor only on 26.04.2017.

3. According to the petitioner, the respondents 4 and 5 were appointed as Assistant Professors in October 2008 and April 2009. The fourth respondent had cleared the TNPSC examination on 11.01.2011 and the fifth respondent had cleared the same on 20.03.2014. The basic difference between the petitioner and the respondents 4 and 5 is that even when the fourth and fifth respondents joined service, they were qualified in M.D., Physiology, whereas, the petitioner was only a MBBS graduate. The petitioner alleges that since the respondents 4 and 5 joined in service after clearing the TNPSC examination in 2011 and 2014, they are entitled to be promoted as Associate Professors only in the year 2016 and 2019 respectively.

4. According to the petitioner, since the respondents 4 and 5 had not put in the required years of service, their names should not have been included for promotion in the order dated 26.12.2014, which was passed by



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the second respondent for filling up of vacant posts of Associate Professor.

By an order dated 07.01.2015, the respondents 4 and 5 were promoted to the post of Associate Professors. This, according to the petitioner, is wrong and therefore, she seeks for a writ of certiorari to set aside the same.

5. It is the submission of Mr.T.Pon Ramkumar, learned counsel for the petitioner that though the petitioner is not qualified, she is still entitled to challenge the seniority list, in which, applying the law to the argument, the writ petitioner will not be entitled. I am afraid that this is not a Public Interest Litigation. A person, who approaches the Court, should have been qualified for promotion or for seniority and the claim of the petitioner should have been overlooked for a person to have a cause of action to maintain the Writ Petition. As pointed out above, the petitioner was not qualified on the date on which the Writ Petition had been filed. The argument that the respondents 4 and 5 were not qualified, cannot be pleaded by the petitioner, who herself did not have the necessary qualification on the date of filing of the Writ Petition.



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6. Mr.T.Amjad Khan, learned Government Advocate appearing for the respondents 1 to 3 would submit that the petitioner was appointed as an Assistant Professor only on 25.04.2012 and therefore, as per the existing Rules, she will be eligible for promotion to the post of Associate Professor only on 25.04.2017. In other words, his argument is that the petitioner is not qualified to be an Associate Professor and therefore, cannot challenge the promotion granted to the respondents 4 and 5.

7. Mr.T.Amjad Khan would point out that special qualifying test has been conducted by the TNPSC. The respondents 4 and 5 had cleared the same and therefore, their service was regularized with effect from the date on which they entered the Government service on 10(a)(i) basis.

8. Heard the learned counsels and perused the materials available on record.

9. This is not a Public Interest Litigation. In fact, service matters cannot be a subject matter of a Public Interest Litigation. In order to challenge the promotion of another person, the petitioner should have been



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eligible for promotion and when despite being eligible, the petitioner is overlooked, that gives a cause of action to the petitioner to challenge the promotion.

10. In the case on hand, Mr.T.Pon Ramkumar admits to the fact that the petitioner is not qualified, but would still argue that she is entitled to challenge the orders benefitting the respondents 4 and 5.

11. I am afraid that I am not in a position to accept this argument. A person who approaches the Court should have been qualified for promotion or for seniority and the case of the petitioner must have been overlooked. As point out above, the petitioner was not qualified on the date on which the Writ Petitions had been filed. The argument that the respondents 4 and 5 were not qualified, can be tested, if a person, who has been affected on account of promotion granted to the respondents 4 and 5 as Associate Professors, comes before this Court. That is not the situation here. The petitioner joined in the year 2012 and she is not entitled for promotion till 2017. It seems like the petitioner has been engaged for the purpose of blowing someone's trumpet. A shadow litigation should never be



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encouraged. Therefore, I am not inclined to entertain the Writ Petition in W.P.(MD).No.3672 of 2015 and the same stands dismissed.

12. Insofar as W.P.(MD).No.19935 of 2015 is concerned, the learned counsel for the petitioner submitted that the petitioner is not pressing the Writ Petition against the fifth respondent, M.Vijayalakshmi, as the fifth respondent was regularised with service on 16.04.2007 and therefore, she is a senior to the writ petitioner.

13. Insofar as W.P.(MD).Nos.19935 of 2015 and 23765 of 2016 is concerned, the tabular column, which is extracted below, given by the respondents clarifies the situation.

Name of the Petitioner/ Respondent	Month and Year of passing MD (Physiology)	Date of entry into Govt. Service	DOR DOP	Date of completion of 5 years of Teaching Experience	Date of Promotion as Associate Professor
Dr.G.Vasuki (writ petitioner)	Mar-2012	04.08.2006	04.08.2006 03.08.2008	24.04.2017	21.06.2018
Dr.P.Sangeetha	Mar-2008	23.05.2008	23.05.2008 22.05.2010	22.05.2013	28.03.2015
Dr.J.Chris Angel	Mar-2009	13.04.2009	13.04.2009 01.05.2011	28.07.2014	26.03.2015



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Dr.M.Vijayalakshmi	Sep-2007	16.04.2007	16.04.2007 01.05.2009	26.09.2012	17.12.2015
Dr.A.B.Baskar	Mar-2010	16.06.2010	16.06.2010 08.11.2012	15.06.2015	19.01.2017
Dr.H.R.Hari Babu	Mar-2010	11.06.2010	11.06.2010 10.06.2012	10.06.2015	13.01.2017
Dr.M.Sivaraj	Mar-2010	04.10.2010	04.10.2010 22.10.2012	04.10.2015	14.01.2017

14. The principles that I have applied in W.P.(MD).No.3672 of 2015 apply to the facts of W.P.(MD).Nos.19935 of 2015 and 23765 of 2016 and therefore, the Writ Petitions are dismissed.

15. In the result, the Writ Petitions are dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

21.11.2023

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



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V.LAKSHMINARAYANAN,J.

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