



WEB COPY



W.P.No.1741 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.1741 of 2024 and
WMP.No.1786 of 2024

Dr.B.Velmurugan

Petitioner

Versus

- 1.The State of Tamilnadu,
Rep. by its Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat, Fort St.George,
Chennai 600 009
- 2.The Director of Medical Education and Research,
Kilpauk,
Chennai 600 010
- 3.The Director of Medical and Rural Health Services,
DMS Compound, Anna Salai,
Teynampet, Chennai 600 006

Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a writ of mandamus directing the Respondents to implement CML 2018 seniority as revised as per the proceedings issued by the 3rd Respondent in Ref. No 25230 / E6 / 3 / 2016 dated 01.06.2022 and to pass orders granting promotion to the petitioner as Associate Professor and Professor on par with his juniors in accordance with revised CML seniority by including the name of the petitioner in 2023-2024 panel for the post of Professor of Anaesthesia at present in



W.P.No.1741 of 2024

consideration of representation submitted by the petitioner dated 06.06.2022 and 26.12.2023 with all consequential and other attendant service benefits including monetary benefits on par with his juniors.

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

For Respondents : Mr.S.Arumugam,
Government Advocate

ORDER

This writ petition has been filed for direction to the respondents to implement CML 2018 seniority as revised as per the proceedings issued by the 3rd Respondent dated 01.06.2022.

2. The petitioner was initially appointed as Assistant Surgeon in Tamilnadu Medical Services through Tamilnadu Public Service Commission based on the selection conducted in the year 1999. Thereafter, he was assigned with seniority in CML.No.4221 based on the selection list forwarded by the Tamilnadu Public Service Commission. Accordingly, he was posted as Assistant Surgeon in Tamilnadu Government Primacy Health Centre, M.Soorakkudi, Sivagangai Health Unit District. After completion of PG degree, he was



W.P.No.1741 of 2024

posted as Assistant Professor in the Department of Anaesthesiology at Madurai Medical College in the year 2008. Based on his seniority arrived in accordance with roster, he was promoted as Assistant Professor in Anaesthesia on inclusion of his name in the year 2019 panel. Service seniority arrived based on roster points in the process of selection is violation of Articles 14 and 16 of Constitution of India and as such, a batch of writ petitions was filed before this Court challenging Section 40 (1) and 70 of Tamilnadu Government Servants (Conditions of Service) Act, 2016. This Court passed order dated 15.11.2019 and directed the respondents to redo the exercise of fixation of seniority within a period of twelve weeks from the date of receipt of copy of the order and declared Sections 1(2), 40 and 70 of Tamilnadu Government Servants (Conditions of Service) Act, 2016 as *ultra vires* and unconstitutional.

3. Thereafter, as per the order passed by the Hon'ble Supreme Court of India in the case of '**Bimlesh Tanwar**' and the Hon'ble Division Bench of this Court in '**Santhosh Kumar**' case, the fixation of seniority based on the marks secured in the selection to be followed. The order



W.P.No.1741 of 2024

passed by this Court was also confirmed by the Hon'ble Supreme Court of India and issued specific directions in Cont.P.(Civil)No.638 of 2017, wherein directed the respondents to revise and publish the seniority list of the selectees who were selected in the selection process conducted in pursuance of the notification issued by the Tamilnadu Public Service Commission dated 10.09.1999 strictly on the basis of the merit determined by it in the selection process and not on the basis of the roster point and the same shall be done within a period of twelve weeks from the date of the order. Accordingly, the Tamilnadu Public Service Commission has forwarded the revised seniority list of Medical Officers selected in the year 1999 batch and appointed in the year 2000. Accordingly, the third respondent issued revised CML for 1999 selection by its proceedings dated 01.06.2022. However, number of juniors have been given promotion to the post of Associate Professor and Professor overlooking the petitioner's seniority.

4. Therefore, the petitioner submitted representation seeking promotion to the post of Associate Professor/Professor on par with his



W.P.No.1741 of 2024

juniors retrospectively by including his name in the panel for the post of Professor in Anaesthesia for the year 2023-2024.

5. In view of the above, the respondents are directed to consider the representation submitted by the petitioner in view of the observations made by this Court and pass orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of copy of this order.

6. With the above direction, this writ petition is disposed of. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

30.01.2024

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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W.P.No.1741 of 2024

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