



W.P.No.21809 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.No.21809 of 2011

Dr.S.Venkatesan MD, DM (Cardiology)

...Petitioner

Vs.

1.The Principal Secretary,
Department of Health and Family Welfare,
Secretariat, Fort St.George,
Chennai – 600 009.

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

3.Medical Council of India,
Rep by its Secretary, Pocket 14,
Sector – 8, Dwaraka Phase I,
New Delhi.

4.Dr.K.S.Arul, MD., DM Cardiology Assistant Professor,
Department of Cardiology,
Tirunelveli Medical College,
High Gound, Palayamkottai.

5.Dr.S.Balasubramanian MD.,DM Assistant Professor,
Madurai Medical College, Madurai.

6.Dr.K.Kannan, M.D., DM Cardiology Assistant Professor,
Department of Cardiology,
Stanley Medical College, Broadway, Chennai.



W.P.No.21809 of 2011

7.Dr.P.Kannan, M.D., DM Cardiology Assistant Professor,
Department of Cardiology,
Salem Mohankumaramangalam Medical College,
Salem.

8.Dr.Justin Paul M.D., DM Cardiology Assistant Professor,
Madras Medical College,
Chennai – 600003.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Mandamus directing the respondents 1 and 2 to give notional promotion of Associate professors in cardiology department of Tamil Nadu State Medical colleges/hospitals as per the seniority list of 2010 of Assistant Professors of Cardiology Department to the petitioner considering the teaching experience from 1998 onwards rendered in the Coronary Care Unit of Cardiology Department by re-designating the post of Assistant Professor in Medicine as Assistant Professor of Cardiology and consequential future promotion as Professor of Cardiology as recognized by the 3rd respondent on the eligibility of petitioner in the Inspection report of MCI/NMC dated 16.08.2018 till the date of retirement on 31.05.2022. (Prayer amended as per order dated 30.11.2023 in WMP 33619/2023 in WP No.21809 of 2011 by DBCJ)

For Petitioner	: Mr.R.Kannan for P.Suhadev
For R1 & R2	: Mr.Tippusulthan Government Advocate
For R3 to R8	: No appearance



W.P.No.21809 of 2011

ORDER

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This Writ Petition has been filed to directing the respondents 1 and 2 to give notional promotion of Associate professors in cardiology department of Tamil Nadu State Medical colleges/hospitals as per the seniority list of 2010 of Assistant Professors of Cardiology Department to the petitioner considering the teaching experience from 1998 onwards rendered in the Coronary Care Unit of Cardiology Department by re-designating the post of Assistant Professor in Medicine as Assistant Professor of Cardiology and consequential future promotion as Professor of Cardiology as recognized by the 3rd respondent on the eligibility of petitioner in the Inspection report of MCI/NMC dated 16.08.2018 till the date of retirement on 31.05.2022.

2.The case of the petitioner is that he joined the service of the second respondent in the year 1991 as Civil Assistant Surgeon. After passing the super speciality degree, DM in Cardiology in September 1997, he was posted in Madras Medical College as Tutor in Medicine Coronary Care Unit (CCU) with effect from 23.04.1998 in the department of Cardiology. He was promoted as Assistant Professor and



W.P.No.21809 of 2011

working in the Cardiology department, teaching the students of DM Cardiology. Petitioner is one of the seniors in the teaching faculty in DM Cardiology department. He made several publications in national and international journals. In the seniority list of medical officers in Cardiology, his rank is 14. The respondents 4 to 8 are his juniors and the third respondent was his student in 2001 - 2003 in DM Cardiology in Tirunelveli Medical College. As per the Tamil Nadu State Medical Education Service, if the candidate who has minimum teaching experience of three years as Tutor, he becomes Assistant Professor in the concerned seniority. Petitioner was holding the post of the Assistant Professor in Medicine (CCU), which has to be re-designated as Assistant Professor in Cardiology. He was working in the department of Cardiology in Madras Medical College since 1998. Unfortunately, petitioner's post has not been re-designated as Assistant Professor in Cardiology despite repeated representations made by the petitioner. The second respondent called for remarks from the Dean of Madras Medical College by a letter dated 03.11.1997 on the requisition of the re-designation of 8 posts Tutor/Assistant Professor of medicine into that of Tutor/Assistant Professor of Cardiology in Chennai Medical



W.P.No.21809 of 2011

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College/Government General Hospital Chennai. The head of the department of Cardiology, Chennai Medical College, sent a reply dated 03.06.1998 through the Dean to the second respondent stating that the Coronary Care Unit (CCU) at General Hospital has been annexed to the department of Cardiology along with the 8 posts existing at that time. A requisition for re-designation of the post was made to the second respondent periodically ever since the merger of the CCU with the department of Cardiology. Non re-designation of the petitioner's post into the Assistant Professor of Cardiology will not render him ineligible for promotion to the post of the Associate Professor of Cardiology. At the time of promotion counselling held on 26.08.2011, petitioner was overlooked and the respondents 4 to 8 were given promotion merely on the ground that petitioner was holding only the post of Assistant Professor in Medicine and not in Cardiology. Petitioner filed an appeal on 29.08.2011. No action was taken by the second respondent. In the said circumstances, petitioner filed this writ petition for the aforesaid reliefs. Thereafter, the relief was amended to give the petitioner notional promotion of Associate Professors in Cardiology department of Tamil Nadu State Medical Colleges/hospitals as per the seniority list of 2010 of



W.P.No.21809 of 2011

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Assistant Professors of Cardiology Department, considering the teaching experience from 1998 onwards and for other reliefs.

2.1.It is the submission of the learned counsel for the petitioner that re-designating the post of Medicine into Assistant Professor of Cardiology should be done by the Dean of the Medical College or the respondents 1 & 2. Despite several representations, they have not done that. Their failure has resulted in causing loss to the petitioner in terms of getting his due promotion to the post of Associate Professor. Though he was designated as Assistant Professor, Medicine, all along he has been serving in Cardiology CCU. In support of his submission, he produced the certificate issued by the Head of the Department, Institute of Cardiology, Govt. General Hospital, Madras Medical College, stating that the petitioner was working with the faculty as Assistant Professor of Cardiology since January 1998. He has shown dedicated involvement in clinical, teaching and research activities. Petitioner had requisite qualification of P.G.Degree in M.D.(Medicine), Super Speciality Degree in D.M.(Cardiology) and two years Teaching experience after completion of Super Speciality Degree. Despite having all the qualifications, he was



W.P.No.21809 of 2011

denied the promotion of Associate Professor.

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3. In response to this submission, the learned counsel for the respondents submitted that the petitioner had not been working in the department of Cardiology. He was not Assistant Professor (Cardiology), but he was working as Assistant Professor (Medicine) and has no requisite qualifications for considering him for the post of Associate Professor (Cardiology). That is the reason why, his claim for promotion was rejected and thus, he prayed for dismissal of this petition.

4. Considered the rival submissions and perused the records.

5. From the facts available in this case, it is not in dispute that petitioner had obtained MD (G.M) in March 1991, DM (Cardiology) in September 1997. Service particulars furnished to this Court by the learned Government Advocate shows that the petitioner was working as Tutor/Assistant Professor in Medicine, (CCU) Madras Medical College, Chennai from 23.04.1998 to 31.10.2019. He was later posted as Assistant Professor of Cardiology, Madras Medical College, Chennai



W.P.No.21809 of 2011

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from 01.11.2019. A perusal of the counter affidavit filed by the respondents shows that the petitioner passed MD General Medicine in March 1991 and passed DM Cardiology in September 1997. He had been working as Tutor in Medicine for the period from 30.01.1997 to 27.10.1997 and from 23.04.1998 to 23.04.1999. He was redesignated as Assistant Professor of Medicine and working in that capacity from 24.04.2009 to till date. Petitioner has to complete two years of teaching experience in Cardiology to become eligible for promotion as Associate Professor of Cardiology. Since petitioner was still working as Assistant Professor of Medicine and that he has not worked as Tutor in Cardiology and his post was not redesignated as Assistant Professor of Cardiology, his period of service could not be counted, as teaching experience in Cardiology. Therefore, petitioner is not eligible for promotion on the crucial date i.e., 15.03.2011 and hence his name was not considered for the post of Associate Professor of Cardiology.

6.In paragraph No.9 of the counter affidavit, it is stated that “the Medical Officer working in the concerned speciality after passing PG degree course are redesignated as Assistant Professor in their speciality at



W.P.No.21809 of 2011

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Dean's level. It is evident that as the department of coronary care unit has been a part of Cardiology department from the year 1986 and the service rendered in that unit could not be taken as teaching experience and therefore, petitioner's post has not been redesignated as Assistant Professor of Cardiology till date eventhough he has been working in the unit since 1998”.

7.This part of the counter affidavit shows that it is for the Dean to redesignate the post of the Assistant Professor Medicine into Assistant Professor Cardiology. As already stated, despite giving representations by the petitioner, his post was not redesignated from Assistant Professor Medicine into Assistant Professor Cardiology. It is also evident from this counter that the department of coronary care unit has been a part of Cardiology department from 1986. It abundantly makes it clear that the petitioner was working in the Cardiology department. This is supported by the certificate issued by the Head of the Department, Institute of Cardiology, Govt. General Hospital, Madras Medical College, stating that the petitioner was working as Assistant Professor of Cardiology since 1998 and he was involved in clinical, teaching and research activities.



W.P.No.21809 of 2011

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There is no iota of any doubt that the petitioner after obtaining specialisation in DM Cardiology has been involved in teaching the students from January 1998. Thus, the petitioner is qualified for the promotion to the post of Assistant Professor, Cardiology. Unfortunately, on the ground that the petitioner's post of Assistant Professor Medicine was not redesignated as Assistant Professor, Cardiology, due to administrative reasons, petitioner's claim to the post of Associate Professor was negated. His juniors, even his student were promoted as Associate Professors. It shows the sad state of affairs in running the administration of the medical educational department.

8.This Court finds that the petitioner has requisite qualification on the crucial date when the panel was prepared on 15.03.2011 for the promotion to the post of the Associate Professor. Therefore, this Court directs the respondents 1 to 3 to give notional promotion to the petitioner as Associate Professor Cardiology in the department of Tamil Nadu State Medical colleges/hospitals as per the seniority list of 2010 of Assistant Professors of Cardiology Department by re-designating the post of Assistant Professor in Medicine as Assistant Professor of Cardiology with



W.P.No.21809 of 2011

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all the attendant benefits.

9. Accordingly, this Writ Petition is allowed. No costs.

Consequently, connected miscellaneous petition, if any, is also closed.

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13.03.2024

Internet: Yes

Index: Yes/No

Speaking/Non speaking order

NCC: Yes/No

To:

1. The Principal Secretary,
Department of Health and Family Welfare,
Secretariat, Fort St. George,
Chennai – 600 009.

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

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G.CHANDRASEKHARAN, J.



W.P.No.21809 of 2011

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