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W.P.Nos.10273 & 30699 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.02.2024

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos. 10273 & 30699 of 2023

and

W.M.P.Nos.10262, 10265, 30358 & 30359 of 2023

1.P.Subramanian
2.A.Devarajan
3.R.Sampath
4.P.Muthusamy
5.C.S.Khannan

....

Petitioners in
W.P.No.10273 of 2023

S.Shanmugam

....

Petitioner in
W.P.No.30699 of 2023

Vs

1. State of Tamil Nadu,
Rep. by the Principal Secretary to Govt.
Health & Family Welfare Department,
Fort St.George, Chennai – 600 009.

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

3. Dean,
Govt. Erode Medical College,
Perundurai, Erode District – 638 053.

4. Director,
Institute of Road Transport,
100 Feet Road,
Taramani, Chennai – 600 113.



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5. The Principal Secretary to Government,
Transport Department,
Fort St.George, Chennai.

(R5 is Suo Motu impleaded as
fifth respondent vide order dated
29.02.2024 in W.P.No.10273 of 2023
and W.P.No.30699 of 2023)

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Respondents in
both W.Ps

Prayer in W.P.No.10273 of 2023 : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to G.O.(Ms.) No.70, Health and Family Welfare (E2) Department, dated 26.02.2020 regarding transfer of 11 categories of posts in the Hospital side issued by the first respondent; consequently relieving order bearing Lr.No.304/E-III/2023 dated 24.03.2023 issued by the third respondent and Letter No.304/Nee-4/2023 dated 25.03.2023 issued by the third respondent to the second respondent and quash the impugned G.O.Ms.No.70, Health and Family Welfare (E2) Department insofar as Paragraph 6(v) is concerned ; quash the impugned relieving order dated 24.03.2023 insofar as the petitioners are concerned and the impugned letter dated 25.03.2023 issued by the third respondent to the second respondent and consequently direct the respondents to retain the petitioners in Government Erode Medical College, Perundurai till they reach the age of superannuation.

Prayer in W.P.No.30699 of 2023 : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in impugned G.O.Ms.No.70, dated 26.02.2020 on the file of the first respondent insofar as Paragraph 6(v) is



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concerned; and the consequently relieving order dated 24.03.2023 in Lr.No.304/E-III/2023 on the file of the third respondent insofar as the petitioner is concerned and quash the same and consequently direct the respondents 1 to 3 to retain the petitioners in Government Erode Medical College, Perundurai till they reach the age of superannuation.

In W.P.No.10273 of 2023

For Petitioners (in W.P.No.10273 of 2023)	: Mr.K.M.Ramesh Senior Counsel for Mr.V.Subramani
For petitioner (in W.P.No.30699 of 2023)	: R.Sanjay Kumar
For R1 to R3 (in both W.Ps)	: Mrs.M.Sneha Special Counsel
For R4 (in both W.Ps)	: Mr.C.Gouthamaraj

COMMON ORDER

Both the writ petitions have been filed challenging G.O.Ms.No.70, dated 26.02.2020 on the file of the first respondent insofar as Paragraph 6(v) is concerned and consequently relieving order dated 24.03.2023 passed by the third respondent.

2. Heard the learned counsel appearing on either side and perused the materials available on record.



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3. The petitioners had joined the services of Institute Road Transport (IRT) Perundurai Medical College and Hospital, Erode District in the year 1988 and 1996. They were sponsored by the District Employment Exchange and they were selected through open competition by conducting full-fledged interview by a Selection Committee. While being so, the Government, by G.O.Ms.No.308, Transport Department, dated 24.10.2018, ordered to handover of IRT-Perundurai Medical College Hospital and School of Nursing run by the Institute of Road Transport to Health and Family Welfare Department, Government of Tamil Nadu from the Academic Year 2019-2020. Pursuant to the said order, the first respondent issued another order in G.O.Ms.No.57, Health and Family Welfare Department, dated 28.02.2019, ordered to permit the second respondent to take over the movable and immovable assets of the IRT-Perundurai Medical College and Hospital, Erode. Thereafter, the first respondent issued an order in G.O.Ms.No.70, Health and Family Welfare Department dated 26.02.2020 accepted the letter of the second respondent to absorb 317 existing posts and creation of man power to both IRT-Perundurai Medical College and Hospital and IRT-School of Nursing, Perundurai, Erode and administrative and financial sanction for creation of 937 posts of various categories for both College and Hospital.



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In Paragraph 6(iv) of G.O.Ms.No.70, the second respondent was permitted to absorb the existing 317 posts in regular time scale of pay along with the present incumbents.

4. Accordingly, 317 posts, including the incumbents, were absorbed into service of Government Erode Medical College, Perundurai, Erode District and they were given pay protection. In Paragraph 6(iv), they stated that existing 317 posts will be absorbed with the present incumbents, in the tabulated column given there under 11 posts were described as non-nomenclature. In Paragraph No 6(vi) the Transport Department was directed to transfer the 11 posts of various categories in the Hospital side which are not required as per Medical Council of India norms to any other department along with its incumbents. The petitioners were working in the said 11 posts as mentioned in the Paragraph 6(vi) and thereby categorically mentioned in the nomenclature. Thus, Paragraph 6(iv) and 6(vi) runs contrary to each other. Pursuant to the said order, the third respondent relieved the petitioners from their respective posts and they were instructed to report before the Director, Institute of Road Transport, Taramani, Chennai.



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5. From the submissions made by the learned counsel appearing on either side reveals that as per G.O.Ms.No.308, dated 24.10.2018 issued by the Transport Department, thereby directed to handover the IRT Perundurai Medical College and Hospital, Erode and School of Nursing to Health and Family Welfare Department, Government of Tamil Nadu from the Academic Year 2019 – 2020. Subsequently, the first respondent issued G.O.No.70, Health and Family Welfare Department, dated 26.02.2020, accepting the absorption of 317 existing posts in regular time scale of pay including 11 posts which were mentioned as non-nomenclature. Whereas in Paragraph 6(vi), the first respondent mentioned their posts, i.e., the petitioners in both the writ petitions. Further the Transport Department was directed to transfer the said 11 posts of various categories in the Hospital side which were not required because of Medical Council of India norms to all other departments along with incumbents. G.O.No.70 was passed on 26.02.2020, but the third respondent relieved the petitioners and four others on 24.03.2023 and directed the petitioners to report before the fourth respondent.



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6. As stated supra, already as per the G.O.Ms.No.308, dated 24.10.2018, the entire Medical College Hospitals and School of Nursing were taken over by the first respondent and subsequently, 317 posts were absorbed by the first respondent. Even the 11 posts were not required as per the Medical Council of India Norms. They have to be absorbed in other departments as per G.O.Ms.No.70, dated 26.02.2020. Whereas, the third respondent now relieved them and directed them to report before the fourth respondent. In fact, the second respondent, as early as on 26.02.2021, had written a letter to the first respondent stating that the service of the petitioners and five others posts were required in the maintenance of infrastructure and in administration of the Medical College Hospital. The third respondent had also written a letter to the second respondent justifying the retention of the petitioners in the third respondent Medical College. All of a sudden now the petitioners were relieved and directed to report before the fourth respondent. Some of the petitioners are at the fag end of their career and as such, they cannot be once again returned to their parent Society, since IRT is run by Society.

7. Though this Court finds no infirmity or illegality in Paragraph No.6(vi) of G.O.Ms.No.70, Health and Family Welfare



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Department, dated 26.02.2020 and the relieving order passed by the third respondent, insofar as the direction is concerned to report before the fourth respondent is arbitrary and illegal. Therefore, this Court Suo Motu impleaded the fifth respondent. The fifth respondent is directed to posts the petitioners in their respective cadets in the same scale of pay with continuity of service and all service benefits in the Transport Department forthwith. The third respondent is directed to send all the service register of the petitioners to the fifth respondent Transport Department forthwith.

8. With the above direction, this Writ Petition stands allowed.

Consequently, connected miscellaneous petitions are closed. No costs.

29.02.2024

Internet : Yes/No

Index:Yes/No

Speaking/Non speaking Order

Neutral Citation : Yes/No

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To

1. The Principal Secretary to Govt.
Health & Family Welfare Department,
Fort St.George, Chennai – 600 009.



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

3. The Dean,
Govt. Erode Medical College,
Perundurai, Erode District – 638 053.

4. The Director,
Institute of Road Transport,
100 Feet Road,
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5. The Principal Secretary to Government,
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