



WEB COPY



W.P.No.10054 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.10054 of 2020
and
W.M.P.Nos.12216 & 12217 of 2020

Dr.Sivakumar

...Petitioner

-Vs-

1.The Secretary to Government,
Health and Family Welfare Department,
Fort St. George,
Chennai – 600 009.

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

3.The Dean,
Tirunelveli Medical College,
Tirunelveli – 627 011.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorarified Mandamus, calling for the records of the second respondent bearing Ref.No.4053/E3/4/2019 dated 04.11.2019 and quash the same and consequently direct the respondents to restore the petitioner's position as an Assistant Professor in the Department of Physiology, in the Tirunelveli



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Medical College in accordance with MCI norms and pass such further orders.

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For Petitioner : Mr.T.Gowthaman

For Respondents : Mr.Tippu Sulthan
Government Advocate

ORDER

This writ petition is filed to quash the second respondent bearing Ref.No.4053/E3/4/2019 dated 04.11.2019 and consequently direct the respondents to restore the petitioner's position as an Assistant Professor in the Department of Physiology in the Tirunelveli Medical College in accordance with MCI norms.

2. Learned counsel for the petitioner submitted that the case of the petitioner may be consider in future vacancies if any arise for the post of Assistant Professor in the Department of Physiology in the Tirunelveli Medical College.

3. A counter affidavit was filed on behalf of respondents 1 and 2 dated 29.03.2021 and the relevant portion is extracted hereunder:

“7. It is submitted that the petitioner in his option form dated 29.05.2019 has expressed his willingness to post him



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only at Government Tirunelveli Medical College, Tirunelveli, but there is no vacancy to accommodate him in Physiology Department at Government Tirunelveli Medical College, Tirunelveli at the time of postings, since the petitioner who found as excess Medical Officer has been fitted Assistant Surgeon Tutor in Forensic Medicine at Government Tirunelveli Medical College, Tirunelveli without disturbing his present station for the purpose of claiming salary from November 2019.

8. It is further submitted that the petitioner attended the Transfer counselling on 27.02.2021 and though there were vacancies available in other Medical Colleges outside Tirunelveli for Physiology department, the petitioner gave unwillingness and gave a declaration that he is not opting for transfer and wanted to remain under the present station. While that being so, the petitioner cannot turn around and contend otherwise.”

4. Learned Government Advocate appearing for the respondents 1 and 2 submitted that the case of the petitioner would be considered for the post of Assistant Professor in the Department of Physiology in the Tirunelveli Medical College if any vacancy arises in future as per rules and regulations.

J.SATHYA NARAYANA PRASAD, J.

5. Heard both sides and perused the materials available on record.



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WEB COPY 6. In view of the above submission made by the learned counsel on either sides, **the writ petition stands closed**. No costs. Consequently, connected miscellaneous petitions are closed.

22.11.2024

cda

Index : Yes/No

Speaking/Non Speaking order

To

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