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W.P.No.12506 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2024

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.12506 of 2024

M. Baby Mariammal

...Petitioner

Vs

1. The Secretary to Government,
Health and Family Welfare Department,
Fort St. George, Chennai 9

2. The Director of Medical Education,
Kilpauk, Chennai 10

3. The Director of Medical & Rural Health Services,
DMS Compound, Teynampet,
Chennai 600 018

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to consider the representation of the petitioner for a permanent transfer to Government Medical College, Thoothukudi in the light of the representation dated 05.12.2023 made by the petitioner within a reasonable orders. .

For Petitioner : Mr. M. Venkataramani, Senior counsel
for Mr.M.Muthappan



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For Respondents

:Mrs.M. Sneha,
Special counsel for Health
and Family Welfare Department

ORDER

This petition is filed seeking to issue a Writ of Mandamus directing the respondents to consider the representation of the petitioner for a permanent transfer to Government Medical College, Thoothukudi in the light of the representation dated 05.12.2023.

2. The facts of the case is that the petitioner is an employee of the Rajiv Gandhi Government Hospital College Hospital Chennai. She made an request to transfer her to Thoothukudi Medical College Hospital and the same was considered and she has been issued with deputation order to serve in the Government Medical College, Hospital, Thoothukudi. The grievance of the petitioner is that after the appointment of the petitioner several persons were posted in Thoothukudi. Therefore, a representation was made to the respondents to permanently absorb the petitioner in Government Medical College, Hospital, Thoothukudi and the same was



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not considered till date. Hence, this petition.

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3. The learned counsel for the petitioner submitted that many number of persons who are juniors to the petitioner have been absorbed in the Medical College Hospital, Thoothukudi and the petitioner was denied permanent absorption in the hospital due to the reasons best known to the respondents. Hence, prays to allow this petition.

4. The learned counsel for the respondents submitted that initially the petitioner was appointed as Rajiv Gandhi Government Hospital College Hospital Chennai and she made an request to transfer her to Thoothukudi Medical College Hospital. Hence, on humanitarian grounds only she has been transferred on deputation to Thoothukudi Medical college Hospital. **She further submitted as the petitioner was transferred on deputation her original post in Rajiv Gandhi Government Hospital College Hospital Chennai cannot be shown vacant in the transfer counselling.** She further submitted that the candidates who prefer for transfer should attend transfer counselling and select the district which they want. Whiles, the petitioner have never



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attended transfer counselling. If the petitioner participates in the counselling she will be given preference.

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

6. On a perusal of records it is seen that initially the petitioner was appointed in Rajiv Gandhi Government Hospital College Hospital Chennai and on her request only she was transferred to Thoothukudi Medical College Hospital. Hence the deputation is made purely on humanitarian grounds and now seeking for permanent absorption without even attending the transfer counselling is not fair.

7. Deputation is posting of an employee to other location on temporary basis, whereas transfer is something relocation of an employee on a permanent basis. It is pertinent to note that the Service Register and all other records will be retained only in the parent Department and they are only deputed for a certain period in some other place and when the employee's deputation period ends, their services are normally returned to their parent department.



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8. This Court time and again in many Judgements has made it clear that transfer cannot be claimed as a matter of right. Whiles the petitioner is claiming the transfer as a matter of right for the reason that her livelihood is in his native district which cannot be accepted by this Court.

9. Considering the facts of the case, this Court directs the petitioner to attend the transfer counselling and select the district which she prefer. Thereafter, the respondents are directed to consider the case of the petitioner and pass orders on merits and in accordance with law.

10. With the above observations this writ petition stands disposed of. No order as to costs.

15.11.2024

Index:Yes/No
Speaking order/Non-speaking order
smn



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V.BHAVANI SUBBAROYAN,J.

smn

To.

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