



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.19031 of 2021
and W.P.Nos.20289, 20290, 20291 & 20292 of 2020

1.Dr.G.Kannan, M.B.B.S., M.D., (Physiology),
S/o.P.Govindhan,
No.96/13, K.N.Pudhur,
Kanavai Pudur, Salem-636 354.

2.Dr.N.Nithya Vikasini, M.B.B.S., M.D., (Physiology),
W/o.Dr.G.Chandrasekaran,
No.24, V.O.C Second Street,
Adukkamparai, Vellore-632 011. ...

Petitioners

versus

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Health and Family Welfare (A1) Department,
Fort St. George, Chennai - 600009.

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

3.The Director of Public Health and Preventive Medicine,
Teynampet, Chennai-600 006.

4.The Dean,
Government Dharmapuri Medical College,
Dharmapuri.



5.The Dean,
Government Medical College, Vellore.

6.Dr.S.Sakila,
Assistant Professor of Physiology,
Thiruvavur Medical College, Thiruvavur.

7.Dr.K.Ramesh,
Assistant Professor of Physiology,
Villupuram Medical College, Villupuram.

8.Dr.K.Suba Revathi,
Assistant Professor of Physiology,
Chengalpattu Medical College, Chengalpattu.

9.Dr.S.Sudha,
Assistant Professor of Physiology,
Chengalpattu Medical College, Chengalpattu.

10.Dr.K.Kanchana,
Assistant Professor of Physiology,
Madurai Medical College, Madurai.

11.Dr.R.Priyadarshini,
Assistant Professor of Physiology,
Madurai Medical College, Madurai.

12.Dr.A.Gayatri,
Assistant Professor of Physiology,
KAP Viswanatham Medical College, Trichy.

13.Dr.D.Bobby,
Assistant Professor of Physiology,
Villupuram Medical College, Villupuram.

14.Dr.S.Kavitha,
Assistant Professor of Physiology,



Coimbatore Medical College, Coimbatore.

15.Dr.S.Palani,
Assistant Professor of Physiology,
Kilpauk Medical College, Chennai.

16.Dr.C.Shanmugapriya,
Assistant Professor of Physiology,
Thanjavur Medical College, Thanjavur.

17.Dr.S.Suguna,
Assistant Professor of Physiology,
Chengalpattu Medical College, Chengalpattu.

18.Dr.P.Aruna,
Assistant Professor of Physiology,
Dharmapuri Medical College,
Dharmapuri.

...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the impugned proceedings of the 1st respondent bearing G.O.(D)No.910 Health and Family Welfare (A1) Department dated 09-08-2021 culminating in the 2nd respondent's impugned Circular bearing Ref.No.46986/E1/4/2021-2 dated 31-08-2021 (both issued on 03-09-2021) in so far as it relates to the promotion counselling for the post of Associate Professors to the Department of Physiology scheduled to be held on 06.09.2021 at 02:00 P.M. or on any other date/time, quash the same and to direct the 1st and 2nd respondents to prepare/draw the year wise promotion panel for the years 2018, 2019 and 2020 for the post of Associate Professors to the Department of Physiology and thereafter conduct the promotion counselling year wise for the said Department, as contemplated under the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 and as directed by this Hon'ble Court by its Common Order dated 08-01-2020 passed in W.P.Nos.14219 and 14220 of 2019.



For Petitioners : Mr.ArunAnbumani

For Respondent Nos.1 to 5 : Mr.R.Neelakandan
Additional Advocate General
Assisted by Mr.K.Tamilvendan
Government Advocate

For Respondent No.8 : Mr.S.Munuraj

For Respondent Nos.9 to 11 & 15: Mr.Menon

For Respondent Nos.6 & 17 : Tapal returned

For Respondent Nos.7, 12 to 14, 16 & 18 : Not ready

ORDER

So far as the relief of proceedings of the second respondent dated 31.08.2021 is concerned, it has become infructuous in view of efflux of time and the said proceedings is nothing but a call letter issued for promotion counselling. Since the same did not happen and the time also lapsed, the above relief in respect of the above proceedings has become infructuous as on today.

2. The second part of the relief is seeking direction to the respondents 1 and 2 to prepare the year wise promotion panel for the years 2018-19, 2019-20, 2020-2021, 2021-2022, 2022-2023 for the post of Assistant Professors to the Department of Physiology and thereafter conduct the promotion counselling year wise for the said Department as per the rules



and as directed by this Court, in its order dated 08.01.2020, W.P.Nos.14219 and 14220 of 2019.

3. Heard Mr.Arun Anbumani, learned counsel for the petitioners and Mr.R.Neelakandan, learned Additional Advocate General for the respondents 1 to 5, Mr.S.Munuraj, learned counsel for the 8th respondent, Mr.Menon, learned counsel for the respondents 9 to 11 & 15 and perused the materials available on record.

4. The petitioners, who are Doctors and Assistant Professors have filed this Writ Petition seeking preparation of promotion panel for the post of Associate Professors year wise. It is now learnt that the petitioners had also filed another Writ Petition in W.P.No.21918 of 2023 and in which, this Court has passed an order dated 24.07.2023 by issuing the following directions:-

“5. In such view of the matter, as this Court has already directed to prepare yearwise panel, counselling shall be done only after yearwise panel has been prepared as directed by this Court in the earlier Order passed in W.P.Nos.14219 and 14220 of 2019 on 18.01.2020.



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6. At this stage, the learned Government Advocate appearing for the respondents submitted that for the year 2018-2019 no vacancy arose.

7. Even in such case, the respondents shall prepare nil vacancy panel as directed by this Court.

8. With the above direction, this Writ Petition is disposed of.”

5. However, on instructions, Mr.R.Neelakandan, learned Additional Advocate General for the respondents 1 to 5 submitted the particulars of the vacancies for the said position, which is as under:-

2018-19	NIL
2019-20	NIL
2020-21	13 vacancies
2021-22	15 vacancies
2022-23	NIL
2023-24	3 vacancies

6. So far as the vacancies pertaining to the year 2020-21, 13 vacancies have been filled up, pursuant to the interim order passed by this Court in W.A.Nos.2608 and 1906 of 2022 dated 17.11.2023 and the Writ



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Appeals are said to be still pending. It is reliably learnt that the pending issue is in respect of those vacancies with regard to '*inter se*' seniority between the service candidates and the direct recruits.

7. Mr.Arun Anbumani, learned counsel for the petitioners submitted that the disposal of those Writ Appeals will also have some bearing on the issue involved in this Writ Petition. However as per the particulars given, there are some 15 vacancies in the year 2021-2022, 3 vacancies in the year 2023-24 and they have to be filled up now.

8. The only concern that was raised by the petitioners is that irrespective of the seniority in which an Assistant Professor stands, he has to acquire certain qualifications before being considered for the promotion to the next level of Associate Professor. So these petitioners claim that they have acquired the qualification long back and had the promotion panel was prepared year wise and the counselling was done as and when it was due, these petitioners would have got their opportunities for promotion at the earliest. Now at a later point of time, when the promotion panels are prepared, persons who have acquired the qualifications later than the



petitioners, will also be included in the panel and they might be treated as seniors by virtue of their appointment as Assistant Professors. But it all depends upon how the vacancy arises for each year.

9. Since the directions have already been given in the earlier Writ Petition and the panel is also going to be prepared shortly after the Elections, the respondents shall consider the petitioners' seniority by following the rules governing the preparation of panel for promotion and also in the light of many judicial pronouncements in this regard.

10. With the above observation, this Writ Petition is **disposed**. No costs. Consequently, connected Miscellaneous Petitions are closed.

21.03.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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To

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- 2.The Director of Medical Education,
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