



W.P.No.94 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2024

CORAM

**THE HONOURABLE Ms.JUSTICE R.N.MANJULA**

**W.P.No.94 of 2021 and**  
**W.M.P.No.141 of 2021**

Dr.S.M.Senthil Nathan

... Petitioner

Vs.

1.The State of Tamil Nadu,  
Rep by its Principal Secretary to Government,  
Health and Family Welfare Department,  
Secretariat, Fort St.George,  
Chennai 600 009.

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

3.Dr.B.Vasanthi

4.Dr.G.Dilish

... Respondents

**PRAYER :** Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to forbear the respondents 1 and 2 from preparing the panel for promotion to the post of Associate Professor in Anaesthesiology 2020-2021 without considering the objections / representation submitted by the petitioner dated 07.12.2020 and consequently, direct the respondents 1 and 2 to include the name of the petitioner over and above the respondents 3 and 4 in the panel for



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promotion to the post of Associate Professor in Anaesthesiology, with all consequential and other attendant benefits.

For Petitioner ... Mr.S.Nedunchezhiyan

For Respondents ... Mr.G.Ameedius, GA for RR1 & 2  
Mr.N.Manokaran for R3  
Mr.M.Ravi for R4

### **ORDER**

This Writ Petition has been filed seeking issuance of a Writ of Mandamus to forbear the respondents 1 and 2 from preparing the panel for promotion to the post of Associate Professor in Anaesthesiology 2020-2021 without considering the objections / representation submitted by the petitioner dated 07.12.2020 and consequently, direct the respondents 1 and 2 to include the name of the petitioner over and above the respondents 3 and 4 in the panel for promotion to the post of Associate Professor in Anaesthesiology, with all consequential and other attendant benefits.

**2.** Heard Mr.S.Nedunchezhiyan, learned counsel for the petitioner, Mr.G.Ameedius, learned Government Advocate for R1 & R2, Mr.N.Manokaran, learned counsel for R3 and Mr.M.Ravi, learned counsel for R4.



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**3.** The petitioner is aggrieved due to the preparation of panel by the respondents 1 and 2 for promotion to the post of Associate Professor.

According to the petitioner, the merit and seniority should be taken into consideration for promotion. But the third and fourth respondents who were not eligible for promotion, have also been included in the promotion panel.

**4.** It is alleged that as far as the third respondent is concerned, she has been slapped with a punishment of stoppage of increment for five years by order dated 22.02.2014 and the said fact was not considered while preparing the panel for promotion. So far as the fourth respondent is concerned, he remained absent unauthorizedly from duty from 27.06.2010 to 29.01.2011 and 14.09.2011 to 15.03.2015. The person who was unauthorizedly absent for five years have also been included in the promotion list.

**5.** The learned Government Advocate for the respondents 1 and 2 submitted that the third respondent's name was not considered to be



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included in the promotion panel in view of her earlier punishment for the panel years from 2014 to 2020. After the currency of punishment was over, her name was included for promotion for the year 2020-21. It is further submitted that for the alleged unauthorized absence of the fourth respondent, a disciplinary action has been initiated and he was given with the punishment of stoppage of increment for one year without cumulative effect *vide* proceedings No.80866/PHC3/A4/2016-3 dated 28.04.2017. Since the punishment of stoppage of one year increment without cumulative effect had been ended on 31.03.2019, he was also included in the panel for the year 2020-21.

6. It is further submitted that the fourth respondent had five years teaching experience in the post of Associate Professor in the speciality of Anaesthesia which alone is the criteria for promotion to the post of Associate Professor. It is also submitted that the period of unauthorized absence of the respondents 3 and 4 have not been reckoned for calculating teaching experience eligibility for promotion to the post of Associate Professor. On the crucial date for the panel for the post of Associate



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Professor, the respondents 3 and 4 possessed the required teaching experience of five years as Associate Professors in Anaesthesiology as prescribed in the rules, excluding the period of their unauthorized absence.

7. The learned Government Advocate now on instructions submitted that the respondents 3 and 4 have already been given promotion and they are as such working in the cadre of Associate Professor and further, the petitioner's name is also under consideration for promotion and he has also been promoted on 08.05.2021. Therefore, now there cannot be any grievance for the petitioner and hence this writ Petition shall be dismissed.

8. It is not the petitioner's claim that he stood senior to the respondents 3 and 4 and the employer considered the punishment imposed upon the respondents 3 and 4 is not a hurdle for their promotion. The currency of punishment of the respondents 3 and 4 was considered in the subsequent panel years and they have been chosen to include only in the later panel for the year 2020-21. Therefore, the petitioner cannot have any grievance over the same. Hence I do not find any merit in the petitioner's



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claim, objecting the inclusion of the respondents 3 and 4 in the promotion panel for the year 2021 for the post of Associate Professor in Anaesthesiology.

**9.** In view of the above stated reasons, this Writ Petition is dismissed.

No costs. Consequently, connected miscellaneous petition is closed.

**04.03.2024**

Index: Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

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WEB COPY To:

- 1.The Principal Secretary to Government,  
Health and Family Welfare Department,  
Secretariat, Fort St.George,  
Chennai 600 009.
- 2.The Director of Medical Education,  
Kilpauk, Chennai 600 010.



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**R.N.MANJULA ,J.**

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