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W.P.No.37849 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2024

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.37849 of 2024

and

W.M.P.Nos.40919 and 40921 of 2024

Dr. Selva Kumar

...Petitioner

Vs

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

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

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records and quash the impugned Circular (Ref.No.104791/E2/1/2024) dated 06.11.2024 issued by the second respondent and consequently direct the respondents 1 and 2 to act as per G.O.131 (2D) dated 20.11.2007 and to determine the qualification for any Medical Officer to receive transfer in the service as per merits and in accordance with law.



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For Petitioner : Mr.C. Kanagaraju
For Respondents : Mr.M. Sneha
Special counsel for Health and
Family Welfare Department

ORDER

By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

2. The petitioner has filed this writ petition to issue a Writ of Certiorarified Mandamus calling for the records and quash the impugned Circular (Ref.No.104791/E3/1/2024) dated 06.11.2024 issued by the second respondent and consequently direct the respondents 1 and 2 to act as per G.O.131 (2D) dated 20.11.2007 and to determine the qualification for any Medical Officer to receive transfer in the service as per merits and in accordance with law.

3.The case of the petitioner is that he is working as Assistant Professor and he is eligible for transfer counselling. While so all of sudden the 2nd respondent issued a circular dated 06.11.2024 in proceeding Ref.No.104791/E3/1/2024, wherein it was stated that there



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was proposal to conduct Special online transfer counselling for Assistant Professor/Tutor/Senior Resident/Junior Resident and Casualty Medical Officer working in the Government Hospitals which is against GO(2D) No.131. The grievance of the petitioner is that the respondents have to conduct promotion counselling as per the hierarchy. Firstly they have to conduct transfer counselling for Professor/Associate Professor and then to the Assistant Professor, so that the existing vacancies will be identified easily. It has been stated that the State Government issued G.O.No.131 dated 20.11.2007 which lays down the rules to be followed in the transfer and promotion of official members such as Assistant Professors/ Senior/ Residents/Tutors and the same has not been followed in the impugned circular. Hence, challenging the said circular, the petitioner has come up with this petition.

4.The learned counsel for the petitioner submitted that the impugned order has been passed purposely and deliberately accommodating a certain group of Assistant Professor for their choice but not for the benefit of all the Assistant Professors working like the petitioner. Hence, prays to allow this petition .



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5. The learned counsel appearing for the respondent submitted that they have only called for the service particulars of Assistant Professor/Tutor/Senior Resident/Junior Resident and Casualty Medical Officer working in Broad Speciality to conduct a Online transfer counselling and they have not passed any orders. It is also pertinent to note that they have not curtailed right of eligible person to participate in the counselling. While so there is no substance for the petitioner to file this writ petition. She further submitted that if the petitioner's turn come to attend the transfer counselling for Assistant Professor his candidature will be considered on merit. She also stated there is no Government Orders insisting to follow hierarchy while conducting transfer counselling. Hence, prays to dismiss this petition.

6. Heard both sides and perused the materials availble on record.

7. On a perusal of the impugned circular it is seen that the second respondent has sought for certain particulars from the eligible persons to conduct transfer counselling and not denied right of any qualified



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persons to take part in the counselling. When this being the case the petitioner challenging the said circular does not reserve any merit consideration. This Court agrees with the submission made by the learned counsel appearing for the respondent that there is no hierarchy to be adopted while conducting transfer counselling. Hence, the impugned circular does not warrant interference by this Court.

8. In view of above it is made clear that if the respondent has denied an opportunity to take part in the counselling or there is any violation by the respondents with regard to the procedures to be adopted while conducting the counselling, the same can be challenged by the petitioner and he cannot question the impugned circular at this juncture.

9. Therefore, there is no merits in the submissions made by the petitioner and this petition deserves to be dismissed. Accordingly this petition is dismissed. No order as to costs. Consequently the connected miscellaneous petitions are closed.

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Index: Yes/No



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Speaking order/Non-speaking order
smn

To

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Health and Family Welfare Department,
Fort St.George, Secretariat,
Chennai – 600 009.

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



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V.BHAVANI SUBBAROYAN,J.

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