



W.P.(MD).No.395 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.03.2024

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.395 of 2024
and W.M.P(MD)No.2015 of 2024

D.Veeraragavan

... Petitioner

Vs

1. The Director of Medical and
Rural Health Services (In-Charge),
Directorate of Medical and Rural Health Services,
Chennai-6.

2. The Superintendent,
ESI Hospital,
Madurai-18.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order in Ref.No.57636/E1/2/2023, dated 20.09.2023 on the file of the Respondent No.1 and consequential impugned order in Ref. No. 6132/E1/2023, dated 22.09.2023 on the file of the Respondent No.2 and quash the same as illegal.

For Petitioner : Mr. Lajapathiroy
Senior Counsel

For Respondents : Mr.S.Shaji Bino
Special Government Pleader



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ORDER

The present writ petition has been filed challenging the impugned order in Ref.No.57636/E1/2/2023, dated 20.09.2023 on the file of the Respondent No.1 and consequential impugned order in Ref. No.6132/E1/2023, dated 22.09.2023 on the file of the Respondent No.2.

2.Heard, the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents. Perused the materials on record.

3.(i).The petitioner was appointed in the post of Assistant Surgeon in the year 2012 in the second respondent Hospital. He has a special child, who is suffering from Autism Spectrum Disorder. He is the one, who support and take care of his special child. While so, the impugned order of transfer, dated 20.09.2023 was passed and consequently, relieving order, dated 22.09.2023 came to be issued. Challenging the same, this writ petition has been filed.

5.The learned Senior Counsel appearing for the petitioner submitted that the Government of India, Ministry of Personnel, Public



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Grievances and Pensions Department vide its Office Memorandum, dated 08.10.2018 provides that considering the transfer of Government employee, who serves as the main care giver of persons with disability would have a bearing on the systematic rehabilitation of persons with disabilities, the Government issued Official Memorandum of even number, dated 06.06.2014 to exempt such employee from routine exercise of transfer/rotational transfer, subject to administrative constraints and the said scheme would cover the employee, who remain as a main care giver for persons suffering Autism. In view of the above guidelines of the Central Government, the petitioner is also entitled to be protected under the mandates of the said memorandum. That apart, G.O.Ms.No.107, Personnnel, dated 03.09.2020 has adopted the same scheme of Central Government and has implemented the same in Tamil Nadu. Despite the issuance of the said G.O., the impugned orders have been passed. Hence, pressed for allowing the writ petition.

6.Though the learned Special Government Pleader has filed a petition to vacate the interim stay granted by this Court, on being circulated with a copy of G.O. Dated 03.09.2020, he fairly stated that transfer of the petitioner would be modified to such extent that the petitioner may be



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accommodated in any one of the Government Hospitals at Manamadurai, Usilampatti, Nilakottai or Natham. In the above terms, he pressed for dismissal of the writ petition.

7.However, this Court is very keen in protecting the petitioner bearing in mind the kind of systematic rehabilitation, which would be necessary to maintain and take care of his child suffering with autism . In view of the above, I hereby quash the impugned order in Ref.No.57636/E1/2/2023, dated 20.09.2023, on the file of the Respondent No.1 and Ref.No.6132/E1/2023, dated 22.09.2023, on the file of the Respondent No.2.

8.Accordingly, this writ petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

07.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
PNM



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L.VICTORIA GOWRI, J.

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ORDER IN
W.P.(MD).No.395 of 2024

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