



WP(MD) No.11312 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.05.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.11312 of 2024

and

W.M.P(MD)Nos.10056, 10057 & 10059 of 2024

Dr.M.Niruba

... Petitioner

Vs.

1.Directorate of Medical Education and Research,
Chennai - 600 010.

2.Directorate of Medical and Rural Health Services,
Chennai.

3.The Joint Director
Joint Director of Health Service,
Madurai.



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4.The Chief Medical Officer
Government Hospital Melur,
Madurai.

5.The Dean
Government Medical College,
Virudhunagar.

6.M.Dhivya
Tutor, Department of Pathology,
Government Medical College,
Virudhunagar.

7.M.Jovitha Jaya Deepa
Tutor, Department of Pathology,
Dindigul Medical College,
Dindigul.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records relating to the circular in Transfer Counselling / By E-Mail Ref No. 000033/E3/1/2024 dated 10.05.2024 issued by the



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1st respondent in so far as Pathology are concerned alone to quash the same as illegal and to direct the 1st respondent revise the seniority list based on date of transfer posting order.

For Petitioner : Mr.B.Vishnuchelliya

For Respondents: Mr.A.Baskaran, - for R1 to R5

Additional Government Pleader

ORDER

The petitioner has filed this Writ Petition seeking a Writ of Certiorarified Mandamus to call for the records relating to the circular in Transfer Counselling / By E-Mail Ref No. 000033/E3/1/2024 dated 10.05.2024 issued by the 1st respondent in so far as Pathology is concerned, to quash the same as illegal and to direct the 1st respondent revise the seniority list based on date of transfer posting order.



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2. Heard Mr.B.Vishnuchelliya, learned counsel for the petitioner and Mr.A.Baskaran, learned Additional Government Pleader for the respondents 1 to 5.

3. In view of the order now passed by this Court, notice to the respondents 6 and 7 is dispensed with.

4. The learned counsel for the petitioner submitted that earlier the petitioner has filed a Writ Petition in W.P.(MD)No.9839 of 2024 seeking to include her in the counselling seniority list by taking into consideration of her earlier date of transfer i.e., on 16.08.2022. In the said Writ Petition, the following orders have been passed :

"4. The petitioner's grievance is that the present circulars dated 06.03.2024 and 15.03.2024 for transfer counselling have been issued by taking into account of the date of joining of Assistant Surgeons whose transfers have also been issued along with the petitioner in the earlier counselling held in the year 2022. As the petitioner could



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join only on 30.08.2022, she could not avail the transfer counselling which is going to be held now.

5. Mr.C.Deepak, learned counsel appearing for the petitioner submitted that the transfer counselling is scheduled to be held on 18.03.2024 and 19.03.2024 has been postponed without any further notice.

6. The petitioner who is a Tutor in Pathology has stated that there are vacancies in other colleges and if her name is also included in the transfer list as against the date of earlier transfer and given an opportunity to participate in the counselling, she could also exercise her option for transfer along with those candidates who have been already transferred along with her during the previous counselling.

7. Since the list has been prepared and notification has been issued, it would be appropriate for the petitioner to claim a relief / or seek a direction to include her name in the list against the date of her earlier transfer order i.e., 16.08.2022.

*8. In view of the above stated reasons, this writ petition is **disposed of** and the first respondent is directed to modify the transfer counselling seniority list and include the name of*



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the petitioner also against the date of her earlier transfer i.e., 16.08.2022 along with those persons who have been transferred along with her during the earlier counselling, without minding her date of joining i.e., 30.08.2022 and issue a revised list within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed."

5. However, it is submitted that in view of the delay in getting the copy of the order, the petitioner was unable to produce the order and see that her name is also included in the seniority list in the transfer counselling held on 15.05.2024. In fact, when the earlier Writ Petition was heard, no notification was issued about the transfer counselling that is scheduled to be held on 15.05.2024. Since the counselling was held all of a sudden, the petitioner was put to disadvantage, despite she has got a favourable direction against the respondents.



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6. It is learnt that the petitioner has been repeatedly making request to the authorities concerned that she has got an order from the Court in her favour. In such context, the respondents should have clarified the genuineness about the submission of the petitioner about the orders of the Court by getting clarification from the respective learned Government Law Officer. Without getting any legal advice, the respondents proceeded to conduct the transfer counselling.

7. Mr.A.Baskaran, learned Additional Government pleader, on instructions, submitted that consequential transfer orders have been issued to the respondents 6 and 7.

8. The sudden rushing of the transfer counselling and issuing the posting and transfer orders yesterday, even after knowing that the petitioner has got an order in her favour, would show the possibility of the presence of some vested interest.



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9. However, in view of the subsequent developments, the petitioner is at liberty to challenge the orders issued by the first respondent in this regard along with a liberty to initiate Contempt proceedings against the first respondent for violating the earlier orders though the petitioner had given a representation to the official respondents and brought it to their knowledge about the existence of an order of the Court issuing directions to them. It is reiterated that even in the absence of production of the copy of the order, on knowing the information, the official respondents could have in all seriousness clarified the genuineness of the petitioner's submission by getting advice from the respective learned Government Law Officer who was present in the Court when the orders were passed.

10. In view of the above observations, the writ petition is **disposed of** and the petitioner is at liberty to challenge the orders issued by the first respondent in consequence of the transfer counselling held on 15.05.2024 and the petitioner is also at liberty



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to initiate Contempt proceedings as against the first respondent. No costs. Consequently, the connected Miscellaneous Petitions are closed.

23.05.2024

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

RM/*mbi*
To

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R.N.MANJULA, J.

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Order made in
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23.05.2024