



W.P.(MD).No.21675 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.21675 of 2024

and

W.M.P(MD) Nos.18309, 18312 and 18314 of 2014

G.Kaleeswari

... Petitioner

Vs.

1. The Director (ESI),
Directorate of Medical and Rural Health Services,
Teynampet,
Chennai.

2. The Medical Officer,
Urban Primary Health Centre,
TSK Colony,
Tiruppur,
Tiruppur District.

3. The Chief Medical Officer,
ESI Dispensary,
Rajapalayam,
Virudhunagar District.

4. Mahalakshmi,
Staff Nurse,
Government Medical College and Hospital,
Pudukkottai.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned transfer order issued by the first respondent vide his proceedings in Ref.No.10850/ESI/E2/2/2024, dated 25.06.2024 to the fourth respondent, quash the same consequently direct the first respondent to issue transfer order to the petitioner at the office of the third respondent.

For Petitioner	: Mr.Mahaboob Athif For Mr.R.Jenifar Bibin
For R1 to R3	: Mr.S.Shaji Bino Special Government Pleader
For R4	: Mr.R.L.Dhilipan Pandian

ORDER

The present Writ Petition has been filed by a Staff Nurse working in the Government Urban Primary Health Centre, Tirupur District, challenging the order of transfer in favour of the fourth respondent herein by way of impugned proceedings, dated 25.06.2024.

2. According to the learned counsel appearing for the writ petitioner, the petitioner was working in Virudhunagar District and she was transferred



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to Tiruppur District in the year 2017. Due to medical ailments, she has given a representation to the first respondent on 11.03.2024 seeking re-transfer to Virudhunagar District. However, without considering the said request, under the impugned order, the fourth respondent has been transferred from Pudukottai to Rajapalayam.

3. According to the learned counsel for the writ petitioner, the fourth respondent has not given any request for transferring her to the competent authority. That apart, the fourth respondent has not completed her probation at the time when the impugned transfer order was passed.

4. Per contra, the learned Special Government Pleader appearing for the respondents 1 to 3 had contended that the fourth respondent has given a request for transferring her from Pudukkottai to Rajapalayam on 12.06.2023 and therefore, considering the fact that the representation of the fourth respondent was prior to the representation of the writ petitioner, the fourth respondent was transferred to Rajapalayam.



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5. The learned counsel appearing for the fourth respondent further submits that the order of transfer has been passed based on the request of the fourth respondent which is prior to the writ petitioner's request and therefore the order impugned in the writ petition has to be sustained.

6. A perusal of the records indicate that the fourth respondent herein has given a representation on 12.06.2023 through the Hon'ble Minister for Electricity Department, who has nothing to do with the Directorate of Medical and Rural Health Services (ESI), Chennai. The fourth respondent has not given any request to the competent authority namely, the first respondent seeking transfer. Therefore, on the basis of the above said request, the first respondent cannot effect transfer under the impugned order. Considering the fact that the petitioner is working in Tiruppur for the past seven years, this Court is of the considered opinion that the petitioner should have been accommodated at Rajapalayam based upon her request dated 11.03.2024.

7. It is also brought to the notice of this Court that the petitioner has already filed W.P.No.14902 of 2024, seeking a Mandamus to issue transfer order to Virudhunagar District. This Court, by an order dated 07.06.2024 has



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directed the authorities to consider the request of the petitioner on the basis of request seniority and policy of the respondents. However, so far the first respondent has not passed any orders on the basis of the request made by the writ petitioner herein or the orders passed by this Court on 07.06.2024.

8. The transfer order in favour of the fourth respondent herein is liable to be quashed and the same is quashed and the first respondent herein is directed to consider the request of the petitioner for transferring to Virudhunagar District, based upon the orders of this Court dated 07.06.2024 in W.P.No.14902 of 2024 and pass orders within a period of six weeks from the date of receipt of a copy of this order.

9. With the above said observations, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently connected Miscellaneous Petitions are closed.

23.10.2024

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

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R.VIJAYAKUMAR,J.

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