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W.P.(MD) No.10933 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.10933 of 2017

and

W.M.P.(MD) No.8365 of 2017

Dr.A.Thinakar Babu

... Petitioner

-VS-

1.The Government of India
Rep. by Deputy Secretary
Ministry of Personnel, P.G.& Pensions
Department of Personnel & Training
Lok Nayak Bhawan, Khan Market
New Delhi-110 003

2.The Dean
ESIPGIMSR Medical College
Ashok Pillar Road
K.K.Nagar, Chennai

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records pertaining to the impugned order in Lr.No.514-A/T-11/15/Legal/W.P.(MD) No.2749 of 2017 dated 26.05.2017 and quash the same as illegal and consequently for a direction directing the respondents to appoint the petitioner as Associate



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Professor (Dentist) with the second respondent – College with consequential benefits, within the time stipulated by this Court.

For Petitioner : Mr.G.Karthik
for M/s.T.Lajapathi Roy & Associates

For Respondents : Mr.K.R.Laxman
Central Government Standing Counsel for R1
Mr.A.Ganapathisamy for R2

ORDER

This writ petition has been filed challenging the impugned order dated 26.05.2017, passed by the second respondent, rejecting the petitioner's request for being appointed to the post of Associate Professor (Dentist) in the second respondent – College.

2. The petitioner belongs to SC category. According to the petitioner, since no eligible candidate belonging to ST category was available for selection to the post of Associate Professor (Dentist) in the second respondent – College, he ought to have been appointed to the said post, though he belongs to SC category.



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3. However, it is the contention of both the learned Standing Counsels appearing for the respective respondents that it is not legally permissible to exchange the reservation between SC and ST category posts. Learned Standing Counsel appearing for the first respondent has relied upon an Office Memorandum dated 06.11.2003, issued by the Ministry of Personnel, P.G. & Pensions, Department of Personnel & Training, Government of India, to substantiate his contention that it is not legally permissible to exchange the reservation between SCs and STs. Therefore, according to them, the respondents have rightly rejected the petitioner's request under the impugned order.

4. This Court, by order dated 14.10.2024, also directed the learned Standing Counsel appearing for the second respondent – College to get instructions as to whether the post for which the petitioner is seeking for appointment in this writ petition was filled up subsequent to the filing of this writ petition.

5. Today, learned Standing Counsel appearing for the second respondent – College has placed on record the written instructions received by



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him from the second respondent – College, dated 15.10.2024, that subsequent to the filing of this writ petition, there is no vacancy available to the post of Associate Professor (Dentist) as the same has been filled up.

6. Since the subject post has been filled up and in view of the fact that it is not legally permissible to exchange the reservation between SCs and STs, as seen from the Office Memorandum dated 06.11.2003, issued by the Ministry of Personnel, P.G. & Pensions, Department of Personnel & Training, Government of India, the question of entertaining this writ petition does not arise.

7. In the result, there is no merit in this writ petition. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

17.10.2024

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

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To:
The Deputy Secretary,
Ministry of Personnel, P.G.& Pensions,
Department of Personnel & Training,
Government of India,
Lok Nayak Bhawan, Khan Market,
New Delhi-110 003.



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ABDUL QUDDHOSE, J.

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