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W.P. No.765 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2025

CORAM:

THE HON'BLE MR. JUSTICE M. DHANDAPANI

W.P. No.765 of 2024

Dr. R. Radhika

Petitioner

Vs

1. The State of Tamil Nadu
Rep. by its Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat, Fort St. George
Chennai – 600 009.

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

3.The Director of Public Health and Preventive
Medicine,
359, Anna Salai,
DMS Complex,
Teynampet,
Chennai 600 006.

Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the 3rd respondent in R.No 5640074 / PHCS/A3/ 2023 dated 11.12.2023 and to quash the same and consequently directing the respondents to consider the petitioner Voluntarily Retired from



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Government service with effect from 31.10.2023 by operation of law, in consideration of application submitted by the petitioner dated 28.07.2023 and the consequent Government Letter No 5155064 /B2/2023 - 1 dated 08.09.2023 issued by the 1st respondent in accordance with Fundamental Rules and to grant with all consequential and other attendant benefits including retirement benefits and regular pension.

For petitioner : Mr.G. Sankaran
Senior Counsel
for Mr.S. Nedunchezhiyan
For respondents : Ms.M. Sneha,
Special Counsel
Assisted by Mr.K. Tippusulthan
Government Advocate

ORDER

This writ petition has been filed seeking quashment of impugned proceedings issued by the 3rd respondent in R.No 5640074 / PHCS/A3/ 2023 dated 11.12.2023 and for consequential direction to the respondents to consider the petitioner's request for voluntary retirement from Government Service by considering the petitioner's application dated 28.07.2023 in line with Government Letter No.5155064 /B2/2023 - 1 dated 08.09.2023 issued by the 1st respondent in accordance with Fundamental Rules as well as to grant with all consequential and other attendant benefits including retirement benefits and regular pension.



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2a. It is stated that the petitioner was appointed as Assistant Surgeon in the Tamil Nadu Medical Service through TNPSC on 20.04.2000. Her services were regularised and probation declared. While in service, she completed DGO in 2005. Thereafter, she completed M.S. (General Surgery) in April 2010 and has since been continuously posted and working only in the Department of General Surgery as Senior Resident / Assistant Professor under the Directorate of Medical Education. She has completed more than 22 years of qualifying service.

2b. Due to family circumstances and health issues, the petitioner submitted an application dated 28.07.2023 seeking Voluntary Retirement with effect from 31.10.2023, through proper channel, along with all required particulars. The 1st respondent, by proceedings dated 08.09.2023, forwarded the petitioner's application to the 3rd respondent.

2c. It is the grievance of the petitioner that no orders were passed by the respondents till the expiry date of notice and subsequently, the 3rd respondent vide impugned notice dated 11.12.2023 rejected the petitioner's VRS application on the ground that Obstetrics and Gynecology is a "scarce category". It is the contention of the petitioner that she is qualified in M.S.



(General Surgery) and has never worked in the Obstetrics and Gynecology Department at any point of time and thus, the impugned rejection order dated 11.12.2023 issued by the 3rd respondent is unsustainable. Challenging the said order dated 11.12.2023 issued by the 3rd respondent, this writ petition has been filed.

3. Learned Senior Counsel appearing for the petitioner submitted that the petitioner satisfied the requirements under Fundamental Rule 56(3), having completed the requisite qualifying service. As per FR 56(f), in the absence of any order refusing permission within the notice period, the petitioner is deemed to have retired on the expiry of the notice period. He further submitted that the petitioner is not qualified with a Post Graduate Degree in Obstetrics and Gynecology, nor has she worked in the O&G Department at any point of time. She has been serving exclusively as a General Surgery specialist throughout her career. Therefore, mechanically, the respondents by considering the petitioner's candidature as O&G being a rare/scarcely speciality has rejected her VRS application, which is arbitrary, erroneous and unsustainable.

4. Further, learned Senior Counsel specifically submitted that after completion of P.G. Diploma in OG, earlier, the petitioner was posted as



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Assistant Surgeon in Government Hospital and thereafter posted as Tutor in the Department of Pathology in Government Medical College, Coimbatore, but the same was not taken into account by the 3rd respondent, while rejecting the petitioner's application for voluntary retirement, that too when the petitioner was not even worked even for a single day in OG Department. He vehemently argued that the impugned order passed is merely contrary to the Fundamental Rule 56(3)(f).

5. Finally, he submitted that the petitioner suffered a punishment of stoppage of increment for one year for the unauthorised absence and in respect of the said reason also, the respondents cannot reject the petitioner's request as per the provisions of Fundamental Rules. In view of the above, he prayed for allowing this writ petition and for issuance of consequential directions to the respondents.

6. Per contra, learned Special Counsel appearing for the respondents submitted that the impugned order dated 11.12.2023 was passed by the 3rd respondent based on the Government Orders, declaring certain specialities as scarce. In support of her arguments, she filed a typed set of papers containing various Government Orders. More particularly, drawing the attention of this



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Court to G.O. Ms.No.408, dated 15.12.2009 with regard to norms for acceptance of Voluntary Retirement letter, pursuant to which, the request of the petitioner was rejected and on the said circumstances, the impugned order dated 11.12.2023 was passed. However, producing the relevant copy of the service particulars of the petitioner, she fairly submitted that the petitioner has been posted and functioning only in the Department of General Surgery and not in Obstetrics and Gynecology. Therefore, this Court may issue appropriate directions to the respondents in the above regard.

7. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record and also Government Orders and the decisions relied on by the learned counsel.

8. Upon hearing the submissions, this Court finds that the petitioner has completed the requisite qualifying service as contemplated under FR 56(3). It is not in dispute that no order rejecting the request for Voluntary Retirement was passed within the notice period, as mandated under FR 56(f). When that being the position, the primary ground for rejection in the impugned order is that Obstetrics and Gynaecology is a rare/scarcely speciality. However, the materials



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on record clearly establish that the petitioner is qualified in M.S. (General Surgery) and has never been posted or worked in the O&G Department. Merely because the petitioner had earlier acquired a DGO qualification, without having served in that speciality, the respondents cannot treat her as belonging to a scarce category so as to deny her statutory right under FR 56(3)(f).

9. While testing the facts of the instant case with the earlier decision of this Court rendered in *W.P. Nos.2336 of 2011 and etc. on 25.04.2016 in the case of Dr. N. Jayanthi, vs. State of Tamil Nadu and 2 others*, wherein it has been discussed about exclusion of certain medical specialties from the Voluntary Retirement Scheme as per G.O.Ms.No.408, Public Health and Family Welfare Department, dated 15.12.2009, this Court feels that certain points are also to be borne in mind, while issuing final orders in Voluntary Retirement application, which are as follows :-

i) the respondents cannot mechanically apply the “scarce speciality” classification without examining the actual post and duties discharged by the medical officer and

ii) the right to seek Voluntary Retirement, once accrued, cannot be denied arbitrarily.



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10. Thus, the ratio laid down in *Dr. N. Jayanthi, as referred to supra* will squarely applicable to the present case, as the petitioner is not serving in the alleged scarce speciality, and the rejection of her VRS application is contrary to FR 56. From the above, it is clear that the impugned proceedings dated 11.12.2023 is unsustainable.

11. Accordingly, the impugned proceedings dated 11.12.2023 passed by the 3rd respondent is hereby set aside. The respondents are directed to process the petitioner's application for Voluntary Retirement strictly in terms of Fundamental Rule 56(3)(f) and pass appropriate orders in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

12. With the above directions, this writ petition stands allowed. No costs.

10.12.2025

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes/No
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M. DHANDAPANI, J.

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To

1. The Principal Secretary to Government,
The State of Tamil Nadu
Health and Family Welfare Department,
Secretariat, Fort St. George
Chennai – 600 009.

2. The Director of Medical Education
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Chennai 600 010.

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