



W.P. No. 4062 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2025

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

W.P. No. 4062 of 2025

and

W.M.P. Nos. 4569 & 4570 of 2025

1. Dr.P.B.Janakiraman
Senior Assistant Surgeon
Government Hospital
Madhavaram, Tiruvallur District.
2. Dr.C.Bagavathi Kanchanamala
Senior Assistant Surgeon
Government Hospital
Tambaram, Chengalpattu District.
3. Dr.V.Rajendra Prasath
Senior Assistant Surgeon
Government Hospital
Kanchipuram District.
4. Dr.A.Mekala Devi
Senior Assistant Surgeon
Government Hospital
Melapalayam, Tirunelveli District.
5. Dr.M.Esakki Raja
Senior Assistant Surgeon
Government Hospital
Alangulam, Tenkasi District.

6. Dr.D.Rajan Babu

<https://www.mhc.tn.gov.in/judis>



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Senior Assistant Surgeon
Government Hospital
Anaicut, Vellore District.

... Petitioners

-VS-

1. The State of Tamil Nadu
Rep. By its Secretary to Government
Health and Family Welfare Department
Secretariat, Fort St. George
Chennai-600009.
2. The Director of Medical Education & Research
Kilpauk, Chennai-600010.
3. The Director of Medical and Rural Health Services
DMS Campus, Anna Salai
Teynampet, Chennai-600006.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the respondents to re-conduct the inter-Directorate transfer counselling after arriving the seniority list of Medical Officers following Civil Medical List (CML) seniority in compliance with the Government Order issued by the first respondent in G.O.(2D) No. 131, Health and Family Welfare (A1) Department dated 20.11.2007 by recalling the transfer counselling held on 25.01.2025, forthwith and consequently permit the petitioners to participate in the counselling based on CML seniority, in consideration of representation submitted by the petitioners.

For Petitioners : Mr.J.Jayamalan

For Respondents : Ms.M.Sneha, Spl.C.
(For Health & Family Welfare Department)

ORDER

The writ petition has been filed to issue a writ of mandamus for a direction to the respondents to re-conduct the inter-Directorate transfer



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counselling after arriving the seniority list of Medical Officers following Civil Medical List (CML) seniority in compliance with the Government Order issued by the first respondent in G.O.(2D) No. 131, Health and Family Welfare (A1) Department dated 20.11.2007 by recalling the transfer counselling held on 25.01.2025, forthwith and consequently permit the petitioners to participate in the counselling based on CML seniority, in consideration of representation submitted by the petitioners.

2. Heard Mr.J.Jayamalan, learned counsel for the petitioner and Ms.M.Sneha, learned Special Counsel for Health and Family Welfare Department and perused the materials placed on record, apart from the pleadings of the parties.

3. The petitioners, who have completed P.G. Medical course but awaiting results in different Specialities, are working as Senior Assistant Surgeons. When they participated in the counselling for P.G. service candidates during August 2024, they wanted to be posted in DME, but due to want of vacancy they have been accommodated in DMS.



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4. The petitioners were given to understand that they will be accommodated in the DME as and when vacancy arises, after promotion counselling through which the Assistant Professors are given promotion to the post of Associate Professors for the panel year 2024.

5. When the promotion counselling was conducted during January 2025 by DME, many Assistant Professors have been elevated to the post of Associate Professors and the future vacancies are sought to be filled up by intra-Directorate and inter-Directorate transfer counselling.

6. The petitioners' service particulars have been called for as per circular dated 06.11.2024. The second respondent has issued a circular dated 09.01.2025 stating that the transfer counselling is going to be conducted from 20.01.2025 to 25.01.2025. In the tentative seniority list prepared for that purpose, the petitioners have been placed in the bottom of the seniority list and they have been placed under the head 'condonation batch medical officers' list'.

7. Now the grievance of the petitioners is that the persons junior to them and who are also having similar qualifications, have been posted in DME, but the petitioners, who have been temporarily placed due to want of vacancy, have



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been kept below in the seniority list and hence, the transfer counselling is discriminatory and hence, appropriate direction should be given to re-conduct the transfer counselling by arriving at the seniority list properly.

8. Curiously, the petitioners have not chosen to challenge the counselling proceeding, but have sought a direction wherein they wanted to quash the earlier transfer counselling, which is already over and for conducting a re-counselling.

9. The learned Special Counsel for Health and Family Welfare Department, on instructions, submitted that the Circular dated 09.01.2025 itself would make an explicit reference that the Medical Officers with P.G. qualification (MD/MS/MDS/DNB) are eligible to attend the counselling to be held from 20.01.2025 to 25.01.2025. Insofar as these petitioners are concerned, they have been placed under condonation batch Medical Officers list. A few persons similar to the petitioners, who are yet to complete the P.G. degree, are also accommodated in DME in few places in view of the vacancies available therein. According to the respondents, persons senior to the petitioners and who have already acquired P.G. degree alone are kept above the petitioners and there is no discrimination in placement.



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10. Admittedly, the petitioners have not completed the P.G. degree though they have completed P.G. course and written their exams. So, the petitioners cannot claim parity with those Medical Officers who are senior to them and who had already completed the P.G. degree and for whom priority has been given in the transfer counselling. The respondent department is not going to deny the transfer counselling to the petitioners, but they can be accommodated only in those places which were not opted by the Senior Medical Officers and who come under the category of the Medical Officers, who have acquired P.G. degree.

11. As the petitioners are not entitled to claim parity with persons who have higher qualification than them, the prayer sought by the petitioners to re-call the counselling already held cannot be granted. However, the second respondent can consider the petitioners case, in case persons similar to the petitioners have been given postings by overlooking those Medical Officers who have already acquired P.G. degree. Despite that their seniors had opted the places in which the juniors have been accommodated. As of now, the petitioners did not bring out any illegality or unreasonableness in the transfer counselling that has been conducted from 20.01.2025 to 25.01.2025.



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12. In view of the above stated reasons, the writ petition is disposed. The petitioners are at liberty to give representation to consider their case also on par with any of those juniors in case they have been accommodated by overlooking their seniors, though their seniors had opted the places where the juniors are accommodated. Consequently, connected miscellaneous petitions are closed. No costs.

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Index: Yes/No

Internet : Yes/No

Speaking/Non-speaking order

Maya

To

1. The Secretary to Government
State of Tamil Nadu
Health and Family Welfare Department
Secretariat, Fort St. George
Chennai-600009.
2. The Director of Medical Education & Research
Kilpauk, Chennai-600010.
3. The Director of Medical and Rural Health Services
DMS Campus, Anna Salai
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R.N.MANJULA, J.

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