



W.P.No.8281 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Dated: 27.02.2025

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.8281 of 2022

and

WMP.Nos. 8264, 8265 & 8266 of 2022

Dr.Suresh Kumar P R

... Petitioner

Vs.

1. The Director of Medical and Rural Health Services,
Department of Medical and Rural Health Services,
Chennai- 6.

2. The Joint Director of Health Services,
Department of Medical and Rural Health Services,
Tirupur District, Tirupur.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records pertaining to the impugned posting order of the 1st respondent dated 18.03.2022 in Ref No. 12818/E1/3/2022, quash the same.

For Petitioner : M/s.T.Dharani
For Respondents : Mr.E.Sundaram,
Government Advocate

Page No.1/8



W.P.No.8281 of 2022

ORDER

WEB COPY Writ petition is filed for issuance of a Writ of Certiorari, calling for the records of the 1st respondent dated 18.03.2022 and quash the same.

2. The petitioner joined the services of the respondent as an Anaesthician in the year 2009. According to the petitioner, there was a disagreement between him and the then Chief Medical Officer of Udumalpet, Government Hospital and so, on the basis of a complaint obtained from his typist, that the petitioner had video graphed and circulated the same to the State Level Medical Officers through Whatsapp group, the Chief Medical Officer, constituted the Vishakha Committee to enquire the complaint. The petitioner challenged the formation of the Visaka Committee in W.P.No.3052 of 2022. Pending the said writ petition, on the basis of an undertaking by the petitioner that he would join duty and continue to work with the 1st respondent, an interim order was passed on 03.03.2022. The petitioner was under the impression that the 1st respondent would permit him to join duty in the Udumalpet Government Hospital, but in violation of the order of this court, the 1st respondent transferred him to Kangeyam Government Hospital, which was 70 Kilometers from Udumalpet Government Hospital. According to the petitioner, as



WEB COPY

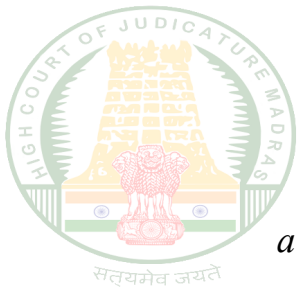
his wife was running a clinic in Udumalpet and their children were studying 2nd and 5th Standard in Udumalpet, the transfer order issued by the 1st respondent not only caused him irreparable loss but also affected his children's education. The petitioner therefore challenged the transfer order, by filing the above writ petition for the aforesaid relief.

3. During the pendency of the writ petition, this court vide impugned order dated 03.03.2022 held as follows:

“3. In view of the above submission, the learned counsel appearing for the petitioner undertakes before this Court that the petitioner is ready to join duty and continue to work with the 1st respondent. Further he undertakes before this Court that the petitioner is ready to file an application before the Committee to produce all relevant document for the charges leveled against him.

4. If that being so, the 1st respondents are directed to permit the petitioner to join duty and continue his work and this order will not stand in the way of the 1st respondents to take necessary action against the petitioner in accordance with rules.

5. In view of the above, the petitioner is directed to file the application for furnishing of documents if so, before the Committee within a period of one week from the date of receipt of



WEB COPY

a copy of the order and on such application being made, the 1st respondents are directed to proceed with the application and pass appropriate orders on merits in accordance with law. Further the petitioner is directed not to violate any Rules or Government Order pending the writ petition.

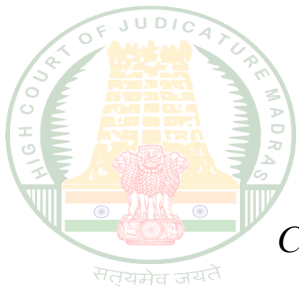
6. Post this writ petition after four (4) weeks for filing a status report and also to file a counter by then.”

4. The said order was challenged by the petitioner in a Writ Appeal in W.A.No.1306 of 2022, and even during the pendency of the writ appeal, the petitioner undertook to report for duty in the transferred place. Recording the said undertaking, an order of interim stay of proceedings in the writ petition was passed on 11.05.2022, by the this court.

5. On 26.07.2023, the Writ Appeal was finally disposed by the first Bench of this court. Wherein, the first Bench in the said order held as follows:

“6. According to the learned counsel for the first to third respondents, the appellant did not report for duty at Kangeyam Government Hospital.

7. If according to the appellant, he was not allowed to join for duty at the transferred place, he could have issued a letter to the respondents and he could have filed an application before this



WEB COPY



W.P.No.8281 of 2022

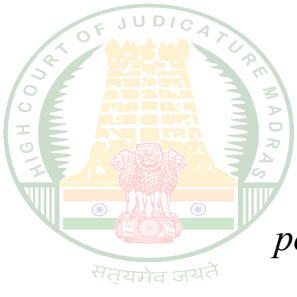
Court, but the same has not been done.

8. We cannot believe that the appellant is not allowed to report for duty. It appears that the petitioner is flouting his own undertaking. In view of that, the protection cannot be granted. Since the matter is pending before the learned Single Judge, the appellant may prosecute his writ petition before the learned Single Judge on its own merits.”

6. The learned counsel for the respondents submits that even now the petitioner has not joined in the transferred place.

7. It is seen that inspite of the petitioner's undertaking to the learned Single Judge and also to the Hon'ble Division Bench, the petitioner did not report for duty in Kangeyam Government Hospital, the place he was transferred to. It is trite in law that without joining in the transferred place, the transfer order cannot be challenged. The Hon'ble Supreme Court in the case of *The State of Uttar Pradesh and Ors. Vs. Manoj Kumar Sharma* reported in *MANU/SC/0411/2021*, held as follows:

“21. The writ Petitioner was posted at Badaun. He was to report to the place of posting and after reporting at the place of



W.P.No.8281 of 2022

WEB COPY

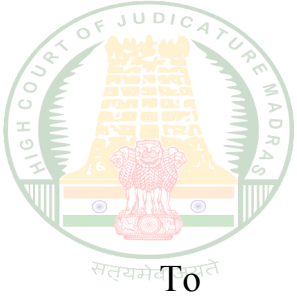
posting, he should have asked for transfer, if permissible, according to the requirement of the State. But he could not have dictated the place of posting without even joining the place where he was first posted. Therefore, we find that the orders of the High Court dated 05.03.2020 and 07.08.2019 are wholly unjustified, unwarranted, arbitrary and illegal. The same are set aside and the appeal is allowed with no order as to costs.”

In the present case, what is appalling is that despite the petitioner's own undertaking before the Hon'ble Division Bench, he has failed to join in the transferred place till date.

I therefore find no merit in the writ petition and hence, same is dismissed. However, there shall be no order as to costs. Consequently, connected writ miscellaneous petitions are closed.

27.02.2025

dsn



W.P.No.8281 of 2022

To
WEB COPY

1. The Director of Medical and Rural Health Services,
Department of Medical and Rural Health Services,
Chennai- 6.
2. The Joint Director of Health Services,
Department of Medical and Rural Health Services,
Tirupur District, Tirupur.



WEB COPY



W.P.No.8281 of 2022

N.MALA, J.

dsn

W.P.No.8281 of 2022

27.02.2025

Page No.8/8