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W.A.Nos.924, 1246 and 1258 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 26.06.2025	Delivered on 04.07.2025
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CORAM:

THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR. JUSTICE K.SURENDER

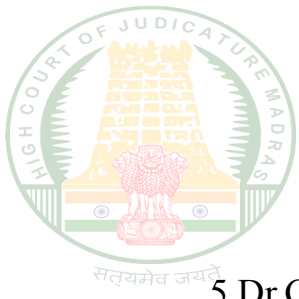
W.A.Nos.924, 1246 and 1258 of 2025**and****C.M.P.Nos.7822, 9454 and 9578 of 2024****W.A.No.924 of 2025:**

- 1.Dr.L.ArulSundaresk Kumar
- 2.Dr.R.Amutha Rani
- 3.Dr.S.Muthuchitra
- 4.Dr.T.Jeyasingh
- 5.Dr.M.Rohinidevi

... Appellants

Vs.

- 1.Dr.J.A.Jayalal
- 2.The State of Tamil Nadu,
Represented by its Secretary to Government,
Health & Family Welfare Department,
Secretariat, Fort St. George, Chennai – 9.
- 3.The Director of Medical Education & Research,
Kilpauk, Chennai – 10.
- 4.The Dean,
Kanyakumari Medical College,
Asaripallam, Kanyakumari – 629 201.



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5.Dr.G.Sivasankar

6.Dr.M.Bhavani

7.Dr.T.Ravikumar

8.Dr.V.Ramalakshmi

9.Dr.S.Kumaravel

10.Dr.P.Leo David

11.Dr.J.DeviMeenal

12.Dr.S.Kalaivani

13.Dr.V.Lokanayaki

...Respondents

Prayer in W.A.No.924 of 2025: Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order in W.P.No.31048 of 2024 dated 26.02.2025.

W.A.No.1246 of 2025:

Dr.S.Kalaivani

... Appellant

Vs.

1.Dr.T.M.Manohar

2.The State of Tamil Nadu,
Rep by its Principal Secretary,
Department of Health & Family Welfare,
Fort St. George, Chennai – 600 009.

3.The Director of Medical Education,
Kilpauk, Chennai – 600 010.

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4.Dr.G.Sivasankar

5.Dr.M.Bhavani

6.Dr.T.Ravikumar

7.Dr.V.Ramalakshmi

8.Dr.S.Kumaravel

9.Dr.L.Arul Sundaresh Kumar

10.Dr.R.Amutha Rani

11.Dr.P.Leo David

12.Dr.J.DeviMeenal

13.Dr.S.Muthuchitra

14.Dr.V.Lokanayaki

15.Dr.T.Jeyasingh

16.Dr.M.Rohinidevi

...Respondents

Prayer in W.A.No.1246 of 2025: Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order in W.P.No.31335 of 2024 dated 26.02.2025.

W.A.No.1258 of 2025:

Dr.S.Kalaivani

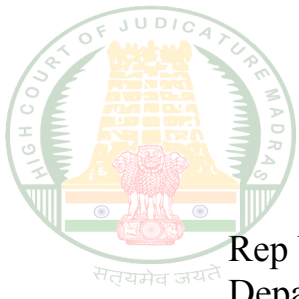
... Appellant

Vs.

1.Dr.J.A.Jayalal

2.The State of Tamil Nadu,

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Rep by its Secretary,
Department of Health & Family Welfare,
Fort St. George, Chennai – 600 009.

3.The Director of Medical Education,
Kilpauk, Chennai – 600 010.

4.The Dean,
Kanyakumari Government Medical College,
Asaripallam, Kanyakumari – 629 201.

5.Dr.G.Sivasankar

6.Dr.M.Bhavani

7.Dr.T.Ravikumar

8.Dr.V.Ramalakshmi

9.Dr.S.Kumaravel

10.Dr.L.Arul Sundaresh Kumar

11.Dr.R.Amutha Rani

12.Dr.P.Leo David

13.Dr.J.DeviMeenal

14.Dr.S.Muthuchitra

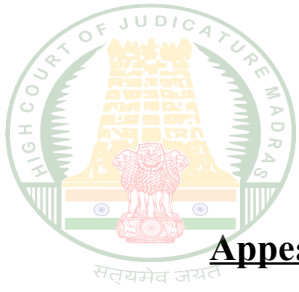
15.Dr.V.Lokanayaki

16.Dr.T.Jeyasingh

17.Dr.M.Rohinidevi

...Respondents

Prayer in W.A.No.1258 of 2025: Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order in W.P.No.31048 of 2024 dated 26.02.2025.



W.A.Nos.924, 1246 and 1258 of 2025

Appearance:

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For Appellants : Mr.Avinash Wadhwani in W.A.No.924 of 2025
Mr.S.Sridharan in W.A.Nos.1246 & 1258 of 2025

For Respondents : Mr.Isaac Mohanlal, Senior Counsel
for Mr.Godson Swaminathan
for R1 in W.A.No.924 & 1258 of 2025

Mr.K.Nishanth for R1 in W.A.No.1246 of 2025

Mrs.M.Sneha, Special Counsel
for R2 to R4 in W.A.No.924 and 1258 of 2025 and
for R2 and R3 in W.A.No.1246 of 2025

Mr.V.P.Sarathi for R7 in W.A.Nos.924 & 1258 of 2025
and for R6 in W.A.No.1246 of 2025

Mr.S.Sridharan for R12 in W.A.No.924 of 2025

Ms.T.Divya for R9 in W.A.Nos.924 & 1258 of 2025
and for R8 in W.A.No.1246 of 2025

Mr.Adinarayana Rao for R5 in W.A.Nos.924 & 1258/2025
and for R4 in W.A.No.1246 of 2025



W.A.Nos.924, 1246 and 1258 of 2025

COMMON JUDGMENT

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(Judgment of the Court was delivered by **R.SUBRAMANIAN, J.**)

Challenge in all these Writ Appeals is to the common order passed by the learned Single Judge in several Writ Petitions filed by the 1st respondent in all these Writ Appeals.

2. The Writ Petitions came to be filed seeking a prayer for Mandamus directing the Government to include the petitioners in the Writ Petitions in the panel for the year 2024-2025 for promotion to the post of Deans in various Medical Colleges, which comes under the common pool based on the Civil Medical List (CML) seniority, without reference to the date of joining in the post of Professor.

3. In some of the Writ Petitions challenge was to the Government Order in G.O.(D).No.1044, Health and Family Welfare (A1) Department dated 03.10.2024 issued by the Government promoting the respondents 4 to 17 in W.P.No.31048 of 2024 and respondents 3 to 16 in W.P.No.31335 of 2024.

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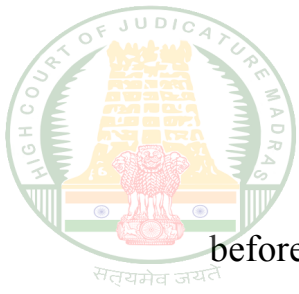
The necessity for the Writ Petitions arose in the following backdrop:-

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4. The promotion opportunities for Government Doctors in the services of the Health Department are as follows:

The lowest post is that of a Civil Assistant Surgeon and the next promotional post from the post of Civil Assistant Surgeon is the Associate Professor. The Associate Professor who has put in 3 years of service with four publications is entitled to get promoted as a Professor. A Professor who completes 5 years of service is entitled to be considered for promotion as a Dean of the Medical College Hospital.

5. It is not in dispute that the 1st respondent in all these Writ Appeals had been promoted as Associate Professors and they had the required qualification for being promoted as Professors. By G.O.(4D)No.2 dated 15.02.2019, the Director of Medical Education sanctioned posts of Professors and directed conduct of counselling. It is to be noted that this counselling was done after 7 years and the immediate prior counselling for promotion to the post of Professor was done in the year 2012. When the counselling was notified in February 2019, certain Writ Petitions were filed



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before Madurai Bench of this Court challenging the said counselling by persons belonging to 11 Disciplines/ Departments. It is averred that there was an oral order of stay granted by the Court in respect of those Departments, promotions in which were subject matter of Writ Petitions.

6. While the Associate Professors in other Departments were promoted pursuant to the counselling held in February 2019, the Associate Professors in at least 11 Disciplines were not promoted, despite the fact that counselling was held. Though the Writ Petitions were disposed of by March 2019, since the model code of conduct came into force from 11.03.2019, the Associate Professors belonging to these 11 specialities were not favoured with an order of promotion. After the model code of conduct was lifted, the 1st respondent in all these Writ Appeals were promoted on 30.09.2019 vide G.O.(D)No.1485 dated 30.09.2019 and those persons assumed office as Professors on 01.10.2019. Except for the Department of Obstetrics and Gynaecology where promotions were made in May 2019.



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7. The dispute arose when the counselling was held for promotion of Professors as Deans of Medical Colleges in the year 2024. Though the 1st respondent in all these appeals were allowed to participate in the counselling that was held in the year 2024, they were denied promotion on the ground that they had not completed 5 years of service as a Professor on the crucial date viz., 15.03.2024. This led to filing of W.P.No.26560 of 2024 seeking a Mandamus.

8. The said Writ Petition was disposed of by this Court on 12.09.2024 relying upon the letter dated 26.06.2024 issued by the Government directing the 2nd respondent to include the names of the Medical Officers promoted as Professors in various Departments for whom the promotions were delayed in the year 2019. The 2nd respondent by his proceeding dated 05.07.2024 published a list of persons who are to be considered for promotion as Deans and it is not in dispute that the said list included the names of the 1st respondent in all these Writ Appeals.



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9. The Government sought review of the said order in Review Application No.177 of 2024 mainly on the ground that attention of the Court was not drawn to the policy decision taken by the Government not to relax the requirement of 5 years experience in the post of Professor as a qualification for appointment as Deans. It was contended that in view of the said decision, the Government's letter dated 26.06.2024 and the consequential proceedings of the Director of Medical Education dated 05.07.2024 had become inoperative.

10. Taking note of the fact this Court by order dated 30.09.2024 allowed the Review Application and decided to hear the Writ Petition on merits. However, on 01.10.2024 the Government issued G.O.(D)No.1037 dated 01.10.2024 releasing a panel of 26 Medical Officers fit for promotion to the post of Deans. While doing so, objections were also invited from the aggrieved persons granting them two months time to file an appeal from the date of issuance of the order. It was also made clear that the panel issued under G.O.(D)No.1037 dated 01.10.2024 will be subject to the outcome of



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the Writ Petition in W.P.No.26560 of 2024.

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11. Surprisingly even without waiting for the appeal period allowed under G.O.(D)No.1037 dated 01.10.2024 viz., two months, the Government issued G.O.(D)No.1044 on 03.10.2024 promoting those persons whose names were found in the panel issued on 01.10.2024 as Deans overlooking the names of the 1st respondent in all these Writ Appeals. This led to spate of Writ Petitions in which G.O.(D)No.1044 dated 03.10.2024 was challenged.

12. The main contention of the petitioners in the Writ Petitions before the writ Court was that all of them were fully qualified for being promoted to the post of Professors and they had also attended the counselling conducted in February 2019. However, their promotions were delayed only due to the oral orders of stay and for administrative reasons viz., the coming into force of the model code of conduct. Since they were not responsible for the delay, they should not be penalized for having not completed 5 years of teaching experience as on 15.03.2024, the date on which the panel is to



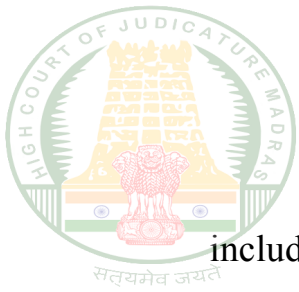
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be prepared.

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13. Yet another contention that was advanced is that the Government having taken up decision to waive the requirement of 5 years experience on 26.06.2024, had no reason to go behind it in September 2024. It was also contended that having allowed two months time for those who had objection to the panel published under G.O.(D)No.1037 dated 01.10.2024, the Government ought not to have issued promotion orders on 03.10.2024 within 2 days. The maxim '*actus curiae neminem gravabit*' was also invoked by the petitioners in the Writ Petitions to contend that their promotions were delayed because of the act of the Court and therefore they should not be prejudiced.

14. The Government resisted the claims made in the Writ Petitions contending that the requirement of teaching experience cannot be dispensed with. Admittedly, none of the petitioners in the Writ Petitions had completed 5 years from the date of their appointment as Professors on the crucial date viz., 15.03.2024. Therefore, they were not entitled to be

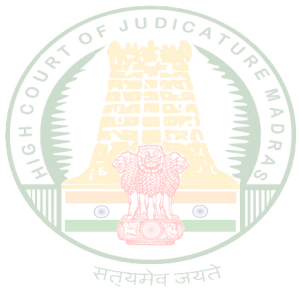


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included in the panel for promotion. A person who is not entitled to be included in the panel for promotion cannot object to promotion being granted to others.

15. Heavy reliance was placed on the judgment in *Union of India and others Vs. M.Bhaskar and others* reported in (1996) 4 SCC 416, wherein, the Hon'ble Supreme Court held that a person who is required to complete a particular period of qualifying service for promotion cannot be heard to contend that the said requirement should be waived for one or other grounds.

16. The learned Single Judge after having considered the rival contentions concluded that the maxim '*actus curiae neminem gravabit*' would apply and held that the 1st respondent in all these appeals had been found to be fit to be promoted as Professors even in February 2019, when the counselling was conducted. While orders were issued for others, the promotion for these respondents were put on hold by the Government citing the oral order of stay as well as the model code of conduct.



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17. The learned Single Judge found that reliance placed on the model code of conduct is wholly un-ethical as it was not a fresh promotion and counselling had been conducted even earlier and others belonging to the same batch have been favoured with the orders of promotion on 28.02.2019. The learned Single Judge also pointed out that the Writ Petitions in which the oral orders of stay were granted viz., W.P.(MD.)No.4690 and 4507 of 2019 were dismissed as withdrawn on 07.03.2019 and 14.03.2019 respectively. Therefore, the delay by the Government citing model code of conduct cannot be accepted.

18. The learned Single Judge found that once the petitioners had participated in the counselling and were qualified to be appointed as Professors even in February 2019 they cannot be visited with a consequence of their further promotion being denied merely because there was some delay on the part of the Government in issuing regular orders of promotion.

19. The learned Single Judge also held that the decision in ***Union of India and others Vs. M.Bhaskar and others (supra)*** relied upon by the

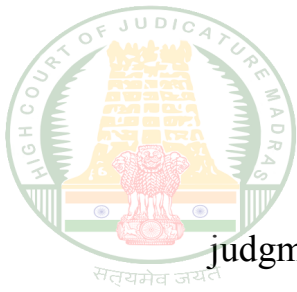


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Government would not apply in the factual circumstances, as in the cases on hand the delay is attributable to the act of the Court and the Government and there was no fault on the part of the candidates/Doctors who were in contention for promotion. It is this order that is subject matter of challenge in all these appeals.

20. We must point out at this juncture that the learned Advocate General who appeared before the learned Single Judge had made it very clear that the Government does not intend to favour any of the parties. Helplessness was in fact pleaded by the Government inasmuch as the requirement of teaching experience was held to be mandatory.

21. In these appeals, the learned counsel for the appellants would vehemently contend that if the 1st respondent in all these appeals are promoted, the appellants would be displaced, *De hors* the reasons for the delay in promotion, since the petitioners in the writ petitions had not completed 5 years of teaching experience as on 15.03.2024 they are not entitled to be considered for promotion for the post of Dean during the year 2024-2025. Strong reliance was again placed by the learned counsel on the



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judgment of the Hon'ble Supreme Court in *Union of India and others Vs.*

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M.Bhaskar and others (supra).

22. Contending contra Mr.Isaac Mohanlal, learned Senior Counsel appearing for Mr.Godson Swaminathan, learned counsel for the 1st respondent in W.A.No.924 and 1258 of 2025 would submit that it is not the case of the Government/ employer that the 1st respondents in all these appeals were not qualified to be appointed as Professors prior to their appointment in May 2019 and October 2019. The fact that they had attended the counselling is admitted. Formal orders of promotion were not issued because of certain supervening circumstances, which cannot be attributed to the candidates. If that be so, the non-consideration of the 1st respondent in all these Writ Appeals would amount to denial of opportunity of promotion to them for no fault of theirs.

23. He would also very seriously fault the Government for having hurried through the matter. In support of his submission for extreme urgency exhibited by the Government, Mr.Isaac Mohanlal, learned Senior

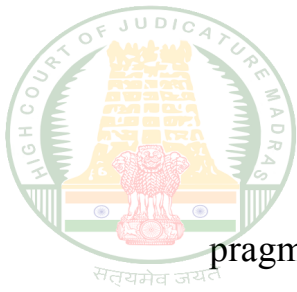


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Counsel would point out that on 01.10.2024, G.O.(D)No.1037 was issued setting out a panel for promotion and inviting objections within two months.

This order was communicated to the Deans of all Medical Colleges on 02.10.2024. Even before the ink could dry, the orders promoting individuals whose names were found in the panel issued on 01.10.2024 were issued on 03.10.2024.

24. Incidentally the learned Senior Counsel would also point out that this Court disposed of the Review Petition only on 30.09.2024 and directed hearing of the main Writ Petition. The learned Senior Counsel would further add that as on the date when the panel was issued viz., 01.10.2024 and as on the date when the promotion order was issued viz., 03.10.2024 all the petitioners in the Writ Petitions/ 1st respondent in all these appeals had completed 5 years of teaching experience. Therefore, the requirement also stood fulfilled. The cut off date for preparation of panel is not a firm date which cannot be altered at all. No doubt a person should be qualified on the cut off date, but, when circumstances that were beyond the control of the individual are shown to exist, the Government should always take a



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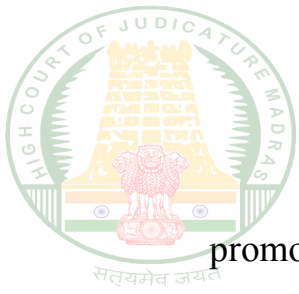
pragmatic view than a dogmatic approach.

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25. Countering the submissions, Mrs.M.Sneha, learned Special Counsel appearing for the official respondents would contend that once there is a statutory requirement under the Rules, the same cannot be relaxed. The fact that certain harsh consequences follow application of certain Rules in their letter and spirit cannot be a ground for this Court to interfere under Article 226 of the Constitution of India.

26. We have considered the rival submissions.

27. These are all very unfortunate cases of highly qualified individuals in the noble profession of Medicine being forced to approach this Court complaining of very harsh consequences for no fault of theirs. Admittedly, all the petitioners/ 1st respondents in these appeals were qualified to be appointed as Professors when the counselling took place in February 2019. They were also called for the counselling. It is not the case of the Government that they were found unfit for promotions. Their



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promotions were delayed because of certain unforeseen events viz., oral orders of stay granted by this Court and implementation of the model code of conduct. They were promoted to the post of Professors some time in May and October 2019. In July 2024, the Government issued a panel for promotion including the petitioners in the Writ Petitions, based on this, this Court had passed order on 12.09.2024, in W.P.No.26560 of 2024.

28. However, a diametrically opposite stand was taken in Review Application No.177 of 2024 stating that the Government has made a policy decision not to relax the requirement of teaching experience and therefore the panel has to be re-visited. This Court allowed the Review Application and directed the Writ Petition to be posted for hearing. Within a day on 01.10.2024 a fresh panel was issued excluding those Professors whose appointments were delayed in 2019. Though the said G.O.(D)No.1037 dated 01.10.2024 permitted appeals to be filed against the panel within a period of two months, on 03.10.2024 that is, within 48 hours, promotions were effected.

29. No doubt, a teaching experience of 5 years in the post of



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Professor is required for promotion as a Dean. The crucial date of preparation of panel is 15th March 2024. If we are to go only by ordinary mathematics, it should be conceded that the petitioners in the Writ Petitions whose promotions were delayed in the year 2019 have not completed 5 years of service as Professors as on 15.03.2024. Whether such inflexible mathematical precision is required when the action will cause grave prejudice to the persons who have put in more than 30 years of service is the question that would beg our attention.

30. No doubt, possession of the required qualification is *sine qua non* for promotion. But, that is not an inflexible Rule. As we had pointed out earlier, the promotions for the post of Professors were effected after 7 years in 2019 and many of the petitioners in the Writ Petitions/ 1st respondent in these appeals had acquired the required qualification for being appointed as Professors much earlier. Merely because the promotion is delayed due to some administrative reasons, they cannot be denied further promotions.

31. Yet another factor that would implore us to conclude that the 1st



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respondent in all these Writ Appeals would be entitled to promotion is that on the date when actual panel was issued on 01.10.2024 they had the required qualification. It is not as if the Government had prepared the panel on 15.03.2024. Admittedly, the first panel was prepared in July 2024 viz., 05.07.2024 including the names of the 1st respondent in these Writ Appeals. However, a second panel was prepared only on 01.10.2024, by which time, all of them had the requisite qualification viz., five years of teaching experience.

32. We must point out at this juncture, it is not in dispute that the petitioners in the Writ Petitions are ranked above some of the promotees in the Civil Medical List (CML), which is the common seniority list. The learned Single Judge had rightly held that the decision in ***Union of India and others Vs. M.Bhaskar and others (supra)*** would not apply as it was the case where the promotion was delayed due to disciplinary proceedings. Upon being exonerated, the employee was directed to be promoted with retrospective effect. In those circumstances, the Hon'ble Supreme Court held that though the promotion would be with retrospective effect that



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would not be considered as a qualifying service. That is not the case on hand here. The promotions were delayed and on the date of preparation of the panel viz., 01.10.2024 the 1st respondent in all these Writ Appeals had a necessary experience of five years as Professors. Therefore, their non-inclusion in the panel would cause substantial injustice to them. We must also point out that there was no cause for the Government to hurry through the appointments.

33. As we had already pointed out, the Review Application was disposed of by this Court only on 30.09.2024 and the decision of this Court in W.P.No.26560 of 2024 was recalled and the Writ Petition was directing to be listed for hearing on merits. Within three days, all efforts were taken to make the Writ Petition, the prayer in which was one for Mandamus, infructuous. What is more intriguing is the fact that actual orders of promotion were passed on 03.10.2024, when the G.O.(D)No.1037, dated 01.10.2024 gave two months time for those persons who are seniors to appeal against the panel.



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34. The learned Special counsel would submit that the promotions would have been reversed if there had been appeals by the aggrieved candidates and those appeals were sustained. This submission cannot be accepted and we are unable to approve the grave urgency exhibited by the Government in passing orders of promotion within the two days from the date of disposal of the Review Application by this Court. We therefore see no reason to interfere with the orders of the writ Court.

35. All these Writ Appeals will stand **dismissed**. However, in the circumstances, there shall be no order as to costs. The Government will comply with the orders of the writ Court within a period of four (4) weeks from today. Consequently, the connected miscellaneous petitions are closed.

(R.SUBRAMANIAN, J.) (K.SURENDER, J.)

04.07.2025

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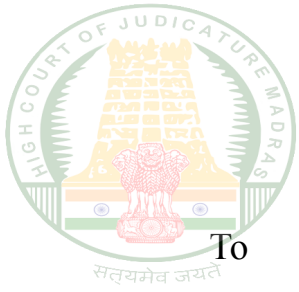


Speaking order

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To

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- 1.The Secretary to Government,
The State of Tamil Nadu,
Health & Family Welfare Department,
Secretariat, Fort St. George, Chennai – 9.
- 2.The Director of Medical Education & Research,
Kilpauk, Chennai – 10.
- 3.The Dean,
Kanyakumari Medical College,
Asaripallam, Kanyakumari – 629 201.



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R.SUBRAMANIAN, J.
and
K.SURENDER, J.

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04.07.2025

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