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W.P.Nos.1073 & 1074 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2025

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.Nos.1073 & 1074 of 2017 and
W.M.P.Nos.23539 & 1030 of 2017 and
W.M.P.No.12312, 15049 of 2018

Dr.M.P.Kumaran

... Petitioner in both W.Ps

Vs.

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

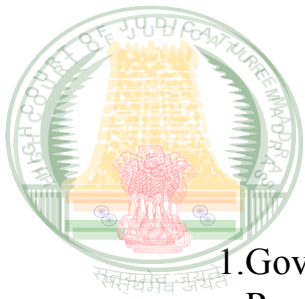
2.The Director,
The Directorate of Medical Education,
Kilpauk,
Chennai 600 010.

3.The Dean,
Madras Medical College,
Chennai 600 003.

4.Dr.G.Mohanapriya

(R4 impleaded as per order dated 16.02.2024 in
W.M.P.No.1592 of 2020)

... Respondents in W.P.No.1073 of 2017



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

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

3. The Dean,
Madras Medical College,
Chennai 600 003.

4. Dr. Dhalapathi

... Respondents in W.P.No.1074 of 2017

Prayer in W.P.No.1073 of 2017 : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the order Ref.No.41979/E3/1/2014 dated 17.11.2014 issued by the second respondent and quash the same to the extent it denies absorption of teaching experience and consequently, direct the respondents 1 to 3 to absorb the petitioner's teaching career as Assistant Professor in the Endocrine Department of the third respondent college into his regular service and to promote the petitioner as Associate Professor with all consequential benefits.



W.P.Nos.1073 & 1074 of 2017

Prayer in W.P.No.1074 of 2017 : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the order G.O.(D).No.1844 dated 28.12.2016 issued by the first respondent and quash the same and consequently, direct the respondents 1 to 3 to demote the fourth respondent to his previous post and to promote the petitioner as Associate Professor with all necessary and consequential benefits.

In both W.Ps.

For Petitioner : Mr.D.Selvaraj

For Respondents : Mr.K.Tippusultan, GA for RR1 to 3
Mr.G.Sankaran, Senior Counsel for
Mr.S.Nedunchezhiyan, for R4

COMMON ORDER

These Writ Petitions have been filed challenging the impugned orders and seeking direction to include the teaching experience as regular service and promote the petitioner as Associate Professor in the third respondent College.

2. Heard Mr.D.Selvaraj, learned counsel for the petitioner, Mr.K.Tippusultan, learned Government Advocate for the respondents 1



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to 3 and Mr.G.Sankaran, learned Senior Counsel for R4 in both Writ Petitions and perused the materials available on record.

3. The petitioner is a Doctor who is presently serving as an Assistant Professor in the Department of Cardiothoracic Surgery in the Madras Medical College. After he joined service in the year 1999, he worked in various Government Colleges in the State of Tamil Nadu as Assistant Professor. In the meanwhile, he has also completed M.Ch (Endocrine Surgery) and has got that as an additional qualification. Later, he was posted as Surgeon in Thiruvatriyur Government College. In the year 2014, he requested to post him in Endocrine Surgery Department in the Madras Medical College on deputation basis. The order has been issued to the petitioner on 17.11.2014. In the said order, it is stated that the period of deputation will not be considered as teaching experience in view of the instructions given in Government Letter No.10998/B-2/2010-1, Health and Family Welfare Department dated 07.04.2010. However, he was deputed to work in the Department of Endocrine Surgery on deputation basis. The respondents 1 to 3 had created one post of



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Associate Professor in the Endocrine Department in the speciality of endocrine surgery for the third respondent College. But one Dr.Dhalapathy has been promoted to the said post.

4. The learned counsel for the petitioner submitted that the petitioner is senior to Dr.Dhalapathy and promotion to the post of Associate Professor has been denied to the petitioner as his service rendered in the Endocrine Department on deputation basis has not been counted with his teaching experience.

5. The learned Government Advocate for the respondents 1 to 3 submitted that the petitioner who has been deputed to the Department of Endocrine Surgery has been informed that his deputation will not be considered as teaching experience in view of the Government Letter issued in this regard in Government Letter No.10998/B-2/2010-1, Health and Family Welfare Department dated 07.04.2010. It is further submitted that the Government Letter and the Government Order preceding to this Government Letter are very much in force and the petitioner has not



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challenged the same. As the eligibility criteria for appointment to the post of Professors and Assistant Professors in the Government Medical College have been amended subsequently in the year 2016, the petitioner ought to have got two years teaching experience in the regular posting in the concerned subject in order to consider him to the post of Associate Professor in the concerned Department.

6. It is also submitted that the fourth respondent had acquired M.Ch (Endocrine Surgery) even in the year 2011 and he was posted in the very same Department as Assistant Professor and he acquired two years teaching experience and therefore, he got the post of Associate Professor and the petitioner did not have the eligibility at the relevant point of time. As the Tamil Nadu Government Doctors Association have been making various demands to the Government, a Committee has been constituted to look into the demands and on their recommendations, orders have been issued in G.O.Ms.No.354, Health and Family Welfare (B2) Department, dated 23.10.2009. The Government Order is very much in force and it is not put to challenge at any point of time.



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Subsequently, certain instructions have been given with reference to G.O.Ms.No.354 dated 23.10.2009 vide letter No.10908/B2/2010-1 dated 07.04.2010. It is learnt from the said letter that certain demands have been made by the Government Doctors Association and instructions and clarifications have been given. So far as the clarification required in respect of deputation, it is demanded that any deputation / drafting should not be considered for teaching experience from 01.04.2010. Since MCI objected such orders for considering those periods on teaching experience, MCI has reduced in certain specialities and the incumbent services are required in those specialities. In order to ratify the deputation orders already issued after verifying the appropriate records as on 31.03.2010, the Government has instructed that no deputation or drafting shall be done thereafter and all such orders, existing and enacted after 01.04.2010 will be considered as administrative reasons and will not be counted for teaching experience after 01.04.2010.

7. Admittedly, this petitioner came to be posted in Endocrine Surgery Department only at his own request on deputation. He was not



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8. So far as posting of the fourth respondent as Associate Professor in the Department of Endocrine Surgery is concerned, it is clarified by the learned Senior Counsel for the fourth respondent that the fourth respondent had acquired the super special qualification in endocrine surgery (M.Ch) even in the year 2011 and in view of that, he had been posted as Associate Professor in Endocrine Surgery Department itself

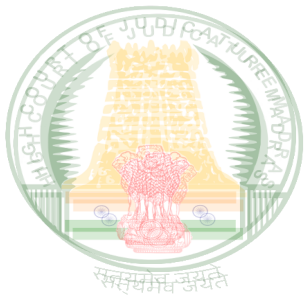


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and he has got four years and 10 months experience in the same subject.

The petitioner cannot have any quarrel on the fact that he had acquired M.Ch Endocrine Surgery qualification only in the year 2013 which is later than the qualification secured by the fourth respondent.

9. Even though the petitioner had served on deputation in view of the earlier Government Order and letters referred above, his period of deputation cannot be counted as teaching experience for the purpose of appointment as Associate Professor in the relevant subject. As per the amended rules issued *vide* G.O.Ms.No.77 dated 23.02.2016, a candidate who is aspiring to become an Associate Professor in Super Specialities Department should have got two years teaching experience in the concerned subject as Assistant Professor in the recognised medical colleges. The said Government Order has not been put to challenge and it is very much in force. As the petitioner did not have two years teaching experience in Endocrine Surgery as regular Assistant Professor, he was not considered to be promoted as Associate Professor in the said subject.



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10. It is submitted by the learned Senior Counsel for the fourth respondent that there were vacancies in the post of Assistant Professor Endocrine Surgery in the Medical Colleges in the other Districts, but the petitioner who had established his practice in Chennai, did not opt to go and join there in order to earn his experience as regular Assistant Professor in the very same subject. But, the said fact was denied by the learned counsel for the petitioner. Whatever may be the case, that is not relevant to the prayer now raised by the petitioner in these Writ Petitions. As the petitioner did not have require two years experience as Assistant Professor in the relevant subject at the relevant point of time, the fourth respondent was considered for promotion as Associate Professor in Endocrine Surgery. Hence, I do not find any violation of the rules with regard to the posting of the fourth respondent to the post of Associate Professor in Endocrine Surgery Department.

11. As stated already, the deputation order issued to the petitioner was in conformity with the earlier Government Order and the Government Letters given in this regard and was very much in force.



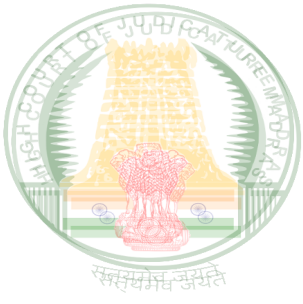
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Those Government Orders and the instructions given have clarified that any teaching service rendered on deputation will be considered for administrative reasons and they shall not be counted for teaching experience for the purpose of further promotion. Hence, I do not find any illegality in the impugned deputation order issued to the petitioner as claimed by the petitioner.

12. In view of the above stated reasons, these Writ Petitions are dismissed. It is upto the petitioner to make any representation to post him in the relevant Super Speciality subject as Assistant Professor in order to gain regular experience for the purpose of considering him for further promotion. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
gsk

24.04.2025



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R.N.MANJULA, J.

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To

1.The Secretary to Government,
Health and Family Welfare Department,
Fort St.George,
Chennai 600 009.

2.The Director,
The Directorate of Medical Education,
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