



W.P.No.32592 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated: 24.03.2025

CORAM :

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.32592 of 2024
& W.M.P.Nos.35429 & 35430 of 2024

Prof. Dr.V.P.Mohan Gandhi,
M.S. (Ortho) Son of Ponnusamy, Hindu
aged about 55 years,
working as Professor & Head of the Department,
Department of Orthopaedic Surgery,
Government Vellore Medical College,
Vellore 632011.

residing at No.78,
Arani Road,
Veppamara Street,
Velapadi, Vellore 632 001.

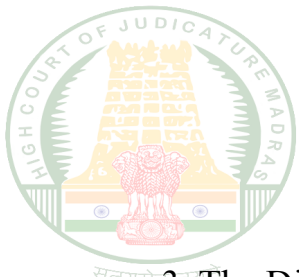
... Petitioner

vs.

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

2.Additional Chief Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Fort St. George, Chennai 600 009.

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

4. Dr.M.Rohinidevi,
Professor of Anatomy,
Government Coimbatore Medical College,
Coimbatore.

... Respondents

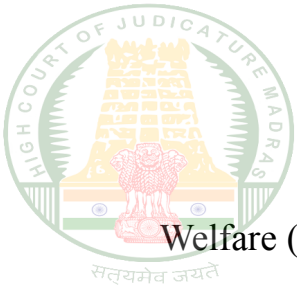
Prayer: Writ Petition has been filed under Article 226 of the Constitution of India, to Writ of Certiorarified Mandamus, to call for the records pertaining to the issue of G.O.(D) No.1037 Health and Family Welfare (A1) Department dated 01.10.2024 and the consequent Government order in G.O.(D).No.1044 Health and Family Welfare (A1) Department dated 03.10.2024, duly issued by the 2nd respondent herein and quash the same and direct the respondents 1 and 2 to post the petitioner as Dean of any Government Medical Colleges.

For Petitioner : Mr.Ashok Kumar.D

For Respondents : Mr.M.Bindran
Additional Government Pleader,
for R1 to R3

ORDER

This writ petition had been filed in the nature of a Certiorarified Mandamus seeking records relating to G.O.(D).No.1037 Health and Family



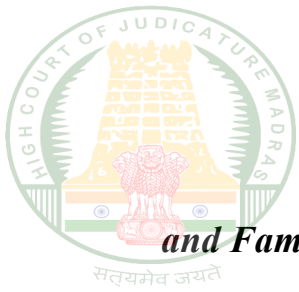
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Welfare (A1) Department dated 01.10.2024 and the consequent Government Order in G.O.(D).No.1044, Health and Family Welfare (A1) Department dated 03.10.2024, issued by the 2nd respondent and quash the same.

2. The petitioner had joined in Tamil Nadu Medical Service on 01.10.1997 and is now working as Professor in Head of Department, Orthopaedics in the Government Medical College at Vellore. It had been stated that the petitioner was not entitled for promotion, as he had not completed 5 years of service as a Professor and therefore, the impugned Government Orders have been passed, directly affecting the service of the petitioner. Under those circumstances, the writ petition has been filed.

3. Heard the respective learned counsels appearing on behalf of both the parties.

4. The issue is no longer *res integra*. A Learned Single Judge of this Court in W.P.Nos.26560 of 2025 etc., batch, ***Prof.Dr.R.Manonmani and other vs. State of Tamil Nadu, represented by Principal Secretary to Government, Health***



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and Family Welfare Department, Chennai, had passed the following order, which was delivered on 26.02.2025.

3. Initially, W.P.No.26560 of 2024 came to be filed by the two petitioners seeking a direction to the official respondents to consider the inclusion of their names in the 2024-2025 panel for the post of Dean consequent upon the promotion counselling conducted on 26.2.2019 and in accordance with the subsequent proceedings of the second respondent dated 05.7.2024.

4. W.P.No.26560 of 2024 came to be disposed of by an order dated 12.9.2024 in the following terms :

“3. The case of the petitioners is that the petitioners 1 & 2 are working as Associate Professors from 2013 onwards. Subsequently, a promotion counselling was conducted on 26.02.2019 and the order of promotion for the post of Professor was issued on 03.05.2019 and both the petitioners joined the post of Professor on 15.05.2019 and 13.05.2019 respectively.

4. The State Government issued orders in G.O.(4D). No.2, dated 15.02.2019 to streamline the teaching post in the Government Medical Colleges



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and Hospitals under the control of DME by sanctioning the post matrix for Speciality Department in every Government Medical Colleges and attached institutions. Accordingly, the Government directed conducting promotional counselling for the post of Professor after the completion of the transfer counselling subject to the availability of the vacancies and preparation of panel.

5. In the light of the above G.O, circulars were issued by the 2nd respondent dated 22.02.2019 and 24.02.2019 to conduct promotional counselling for all the Speciality Departments for promotion to the post of Professors. In so far as the petitioners are concerned, since they were fully qualified and completed three years of service in the post of Associate Professor, there were allowed to participate in the promotional counselling conducted on 26.02.2019. The further case of the petitioners is that the Dean of a Medical College is an Administrative Post coming under the common pool and the feeder post for the same is the post of Professor and the seniority is taken into consideration in the CML in all the Speciality Departments.

6. The Government issued letter dated 26.06.2024 through which the 2nd respondent was directed to include the name of the Medical Officers



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promoted as Professors in different Speciality Departments including the OG Department for whom promotion order for the post of Professors was delayed in the year 2019. This happened due to the pendency of some writ petitions and also the following pandemic.

7. The 1st respondent passed orders on 26.06.2024 followed by the proceedings of the 2nd respondent dated 05.07.2024 for rectification of the discrepancies in the matter of eligibility out of all medical officers who were given promotion as Professors based on the earlier counselling that was conducted in the year 2019 without reference to the date of joining to the post of Professors.

8. The grievance of the petitioners is that the respondents are promoting the juniors without considering the petitioners on the premise that they were not holding the post of Professor as on 15.03.2019 and thereby had not completed five years of service as Professor as on the crucial date of 15.03.2019. It is under these circumstances, the present writ petition has been filed before this Court.

9. In the considered view of this Court, the Government has already issued letter dated 26.06.2024, whereby the 2nd respondent was directed to include the names of all the Medical Officers for the promotion as Professors in different



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Speciality Departments including the OG Department for whom the promotion was delayed. Consequently, the 2nd respondent has issued proceedings dated 05.07.2024 by rectifying the discrepancies in the matter of eligibility conditions of the Medical Officers who were given promotion as Professors in the year 2019. While that being so, the names of the petitioners will have to be necessarily included in the panel for the post of Dean for the panel year 2024-2025. Hence, this Court finds that there is no reason as to why the names of the petitioners should not be added without there being a valid reason inspite of the letter issued by the Government dated 26.06.2024 followed by the proceedings of the 2nd respondent dated 05.07.2024.

10. In the result, the representation made by the petitioners shall be considered and their names shall be included in the 2024-2025 panel for the promotion to the post of Dean, if they are otherwise qualified.

11. Accordingly, this Writ Petition stands disposed of in the above terms.”

5. After the above order was passed by this Court, Review Application No.177 of 2024 came to be filed by the official respondents mainly on the ground that the notice of



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this Court was not drawn to the policy decision taken by the Government not to relax the requirement of five years experience in the post of Professor and thereby the Government's letter dated 26.6.2024 and the consequential proceedings of the second respondent dated 05.7.2024 became inoperative.

6. This Court, after hearing the learned counsel on both sides, allowed the said review application by an order dated 30.9.2024 in the following terms :

“3. The writ petition was filed by respondents herein for inclusion of their names in the 2024-2025 panel for promotion to the post of Dean consequent to the promotional counselling conducted on 26.02.2019 and in accordance with the proceedings of the second respondent dated 05.07.2024.

4. This Court, on hearing either side, disposed of the writ petition by order dated 12.09.2024 by taking note of the Government letter dated 26.06.2024 and the consequential proceedings of the Director of Medical Education and Research dated 05.07.2024. The crux of these proceedings is that even though the writ petitioners did not fulfil the requirement of completing five



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years as Professors, considering the delay that had occasioned in their promotion, the period was sought to be relaxed and the names of the writ petitioners were sought to be considered for inclusion in the panel for the post of Dean.

5. This review application has been filed mainly on the ground that it was not brought to the notice of this Court that the Government had taken a policy decision not to relax the requirement of five years experience in the post of Professor for preparation of panel to the post of Dean. Thus, a ground has been taken in the review application to the effect that the policy decision taken by the Government virtually makes the Government letter dated 26.06.2024 and the consequential proceedings of the Director of Medical Education and Research dated 05.07.2024, inoperative.

6. Learned Additional Advocate General, in order to substantiate the grounds raised in the review application, also circulated the -Note File containing the decision taken by the Government and it has been signed by the concerned authority on 02.09.2024.

7. The relief was granted to the writ petitioners only by relying upon the Government



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letter dated 26.06.2024 and the consequential proceedings of the Director of Medical Education and Research dated 05.07.2024. If these proceedings are set at naught by the policy decision taken by the Government, then the relief cannot be granted to the writ petitioners based on these proceedings. The matter has to be heard on merits and appropriate orders must be passed in the writ petition.

8. In the light of the above discussion, this review application is allowed and the order passed in W.P.No.26560 of 2024, dated 12.09.2024 is recalled. As a consequence, the writ petition is restored to file to be heard on merits. No costs.

Post W.P.No.26560 of 2024 for hearing on 16.10.2024 at the end of the motion list.”

7. In the light of the above order dated 30.9.2024 passed in the said review application, W.P.No.26560 of 2024 has been restored to the file of this Court to be heard on merits.

8. Pursuant to that, the first respondent issued G.O.(D) No.1037 dated 01.10.2024 preparing a panel of 26 Medical Officers fit for promotion to the post of Dean. The first



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respondent also invited objections from the Senior Medical Officers, whose names were not included in the list, within a period of two months. The second respondent, through proceedings dated 02.10.2024, communicated the said Government Order dated 01.10.2024 to the Deans of all the Medical Colleges, who were, in turn, directed to communicate the same to the concerned Medical Officers for submitting their objections, if any.

9. By the time the objections could be submitted by the Senior Medical Officers, the impugned Government Order in G.O.(D) No.1044 dated 03.10.2024 came to be issued by the first respondent by giving promotion to 14 Professors as Deans, who have been arrayed as private respondents in two of the writ petitions namely W.P.Nos.31048 and 31335 of 2024. Aggrieved by that, the other three writ petitions namely W.P.Nos.31048, 31109 and 31335 of 2024 have been filed before this Court.

....

....

38. The petitioners admittedly participated in the promotion counselling that was held along with others and for reasons, which are not attributable to them or in other words, for which, the petitioners cannot be blamed, the promotion and posting orders came to be issued at a later point of time and that is now being put against the petitioners



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stating that as on the crucial date i.e on 15.3.2024, the petitioners had not completed the five years' teaching experience as Professors.

39. The fact of the matter is that the petitioners are very much eligible for promotion to the post of Professor after having participated in the promotion and transfer counselling along with the Medical Officers of the other specialities. Hence, the benefits that accrued in favour of those candidates belonging to the other specialities should be equally extended to the petitioners also. In Service Law, the matter of promotion in many cases would be by virtue of seniority and more so when the mode of appointment to the next higher grade is on the basis of seniority in the feeder category.

...

43. The impugned promotion order was issued by making it clear that it would be subject to the final outcome of W.P.No.26560 of 2024. Hence, those, who were appointed as Deans through the impugned Government Order, cannot claim any vested right as they were all aware of the fact that the matter is subjudice. Accordingly, the very promotion order is subject to the outcome of these writ petitions.

44. In the light of the above discussions, this Court holds that the act of the Court and the administrative delay should not be put against the petitioners, who would have



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otherwise fulfilled the requirement of teaching experience like that of the candidates in the other 22 specialities, who got their promotion and transfer orders on time. Consequently, the petitioners must be held to be eligible for promotion to the post of Dean in the Government Medical Colleges in line with their respective CML seniority by including them in the appropriate position below their immediate senior.

....

49. For the foregoing reasons, the writ petitions are allowed, the impugned Government Order in G.O.(D) No.1044 dated 03.10.2024 issued by the first respondent is set aside and there shall be a direction to respondents 1 and 2 to give promotion to the petitioners to the post of Dean in the Government Medical Colleges by placing them at the appropriate position in the panel for the year 2024-2025 as per their respective seniority in the CML within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected WMPs are closed.

5. The said order enures to the petitioner also. The writ petition stands allowed. The impugned Government Order in G.O.(D).No.1044 dated 03.10.2024 issued by the first respondent is set aside and there shall be a direction to respondents 1 and 2 to give promotion to the petitioner to the post of Dean in



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the Government Medical Colleges by placing him at the appropriate position in

the panel for the year 2024-2025 as per his respective seniority in the CML within

a period of four weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

24.03.2025

Neutral Citation : Yes/No.

bsm

To,

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

2. The Additional Chief Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Fort St. George, Chennai 600 009.

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

4. The Government Pleader, High Court, Madras.



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C.V.KARTHIKEYAN, J.

bsm

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