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WP.No.34131 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 02.07.2025

PRONOUNCED ON : 12.09.2025

CORAM

THE HONOURABLE Mr.JUSTICE **C.KUMARAPPAN**

WP.No.34131 of 2024

and

WMP.Nos.36950 & 36951 of 2024

Dr.V.Balaraman
S/o.M.Velayudham
Professor of Nephrology,
Institute of Child Health,
Madras Medical College,
Chennai.

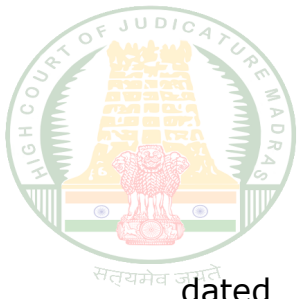
... Petitioner

Vs.

1. State of Tamil Nadu
The Additional Chief Secretary to Government,
Health and Family Welfare (A2) Department,
Fort St.George, Secretariat,
Chennai.
2. Directorate of Medical Education and Research,
Medical Department, DMS Campus,
Teynampet, Chennai-6.
3. The Dean,
Institute of Child Health
Madras Medical College
Chennai.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India,
praying to issue a writ of Certiorarified Mandamus, to call for the
records of the 1st respondent in her proceedings in Letter (D) No.952



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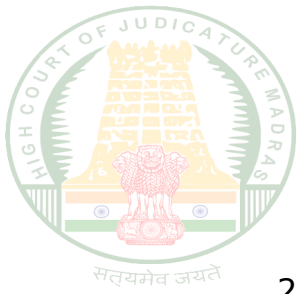
dated 04.09.2024, which was communicated by the 2nd and 3rd respondents and to quash the same as being illegal and unsustainable in law and for a consequential direction to the respondents to relieve the petitioner on Voluntary Retirement from Government Service.

For Petitioner : Ms.N.Kavitha Rameshwar

For Respondents : Ms.M.Sneha
Special Counsel

ORDER

The brief facts which are necessary for disposal of the present writ petition is that, the petitioner has given an application for voluntary retirement vide his representation dated 01.06.2024. The reason for voluntary retirement is that his two daughters are wheelchair dependent spastic daughters, whose daily life is dependant on the petitioner. However, the request for voluntary retirement service was rejected by the first respondent vide order dated 04.09.2024 on the ground that the Department which the petitioner is heading qua Nephrology is a Scarce Category, and that his continuance in Government Service is absolutely essential in the public interest. Aggrieved with the said order, the present writ petition was filed.



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2. Heard Ms.N.Kavitha Rameshwar, learned counsel for the petitioner and Ms.M.Sneha, learned Special Counsel appearing for the respondents.

3. The learned counsel for the petitioner would submit that initially the petitioner was appointed in 1997 as an Assistant Surgeon, and later promoted on 02.02.2021 as Professor of Nephrology in Madras Medical College. The learned counsel would further submit that the petitioner had completed 27 years of service and that he has got two special wheelchair dependent spastic daughters with >80% disability of ages 23 and 15 whose medical care and activity of daily life is dependent hardly with the personal attention of this petitioner. It is their further submission that since the petitioner's daughters are growing older, it become impossible for the petitioner's spouse to take care of them alone and even his wife has also been recently diagnosed with osteoarthritis. It is in this background, the learned counsel for the petitioner would submit that unless the petitioner takes care of his daughters, it becomes detrimental to their wellbeing. However, the respondent, without considering the essential requirement of petitioner, has erroneously rejected by citing G.O.Ms.No.408 dated 15.12.2009 as if the specialization in Nephrology is a scarce category.



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The learned counsel would further submit that though initially it was a scarce category, now there is a increase in take of students for the specialization, which the respondent did not consider. She would also contend that now there are more sanctioned post in Nephrology Department, therefore the specialization in Nephrology could be no longer a scarce category. Hence, would contend that the impugned order is liable to be quashed and the petitioner is entitled for a Voluntary Retirement of Service. In support of her contention, the learned counsel relied upon the judgments of this Court in **WP.No.2336, 2337 & 10226 of 2011 [Dr.N.Jayanthi M.S., D.O Vs. State of Tamil Nadu]**, **WP (MD).No.10198 of 2015 [Elizabeth Rajaram Vs. The Principal Secretary]**, besides the judgment of the learned Single Judge in **WP.No.7038 of 2013 [Dr.Muthusamy Vs. Secretary to Government]**.

4.Per contra, the said contention was stoutly objected by the learned Special Counsel on the specific ground that the petitioner has given voluntary retirement application only to have a greener pastures of more income, which is evident that the petitioner became a part of “Gleneagles hospital” and has been taking appointment, even while he is in the rolls of the respondent. The learned Special Counsel would



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further submit that the petitioner having applied medical leave and subsequently, a leave on loss of pay, in spite of his absolute necessity at Institute of Child Health and Hospital of Children attached to Madras Medical College, Chennai, he failed to rejoin, but treat the patients in the private hospitals. Therefore, contended that the reason assigned by the petitioner for voluntary retirement is far from truth. It is the further submission of the petitioner that the petitioner's specialization viz., Nephrology is a scarce category and that while the petitioner was given seat in the DM Nephrology, he had executed a bond to remain in service still his superannuation. Thus, the question of relieving him on voluntary retirement in the midway is against the public interest. Therefore, would contend that the order of the Authority need not be interfered with under the judicial review, as the same is in consonance with the Government Order. Hence, prayed to dismiss the writ petition.

5. I have given my anxious consideration to either side submissions.

6. The factual issue involved in the present *lis* is not in serious dispute. It is an admitted fact that the petitioner has functioned in the Nephrology Department at the Institute of Child Health and Hospital for



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Children attached to Madras Medical College. It is equally not in dispute that the petitioner joined in DM Nephrology degree according to his merit under the inservice quota by executing a bond. According to the bond, he ha to remain in service till his superannuation. It is equally not in dispute that at the time of allotting seat for DM Nephrology to the petitioner, the entire State has got only one seat for the said specialization.

7.It is also not in serious dispute that the petitioner has got two special wheelchair dependent spastic daughters, having disability of more than 80% of ages 23 & 15. While looking at the application for the voluntary retirement, the main ground urged by the petitioner is, to take care of his two dependent daughters. In his representation dated 01.06.2024, he has stated that as their daughters growing older, it become impossible for his spouse to take care of them alone. Apart from this ground, there are no other ground for the petitioner to seek voluntary retirement.

8.But, the first respondent vide impugned order dated 04.09.2024 has referred about Rule 56(3)(f) of Fundamental Rules and has mentioned that the appointing authority is empowered to withhold



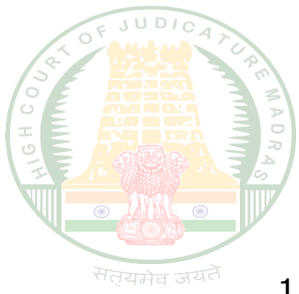
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permission of Voluntary Retirement, if the post held by the employee comes within the Scarce Category. The learned Special Counsel relied upon the G.O.Ms.408 dated 15.12.2009. According to the above G.O., Nephrology is admittedly a scarce category.

9. Even according to the petitioner, when the petitioner joined in the DM Nephrology Course, for the whole State there was only one seat. But, it was contented that by efflux of time, the intake for DM Nephrology has been increased manifold and the Government has also created various posts in the Nephrology Department.

10. At this juncture, the learned counsel for the petitioner invited the attention of this Court about the orders passed by the learned Single Judge in **Dr. Muthusamy's** case [cited supra], wherein the learned Single Judge in spite of the fact that the general medicines refers to as scarce category, has raised a doubt in respect of such classification and ultimately permitted for voluntary retirement of the Doctor who had specialized in the General Medicine. But, the facts of the above reported case is not applicable to the case in hand.



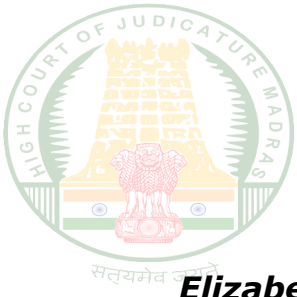
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11.The learned counsel for the petitioner has also relied upon the judgment of the learned Single Judge of this Court in **Dr.N.Jayanthi's** case [cited supra]. This is a case where the Doctor who applies for the voluntary retirement has got serious medical ailments, and her continuance would jeopardise the quality of treatment and wellbeing of the patients besides her medical condition. Therefore, when the individual seeks for voluntary retirement on the ground of his serious medical ailments, this Court has quashed the rejection order and ultimately, permitted them to go in voluntary retirement.

12.Similarly, in another writ petition in **Elizabeth Rajaram's** case [cited supra], the learned Single Judge has held that when the Government orders are silent as to what will happen to the rare specialist, who decide to opt for voluntary retirement, then the Court has to come to rescue by giving a different interpretation in one way or the other.

13. From the above cited judgments, it is amply clear that notwithstanding the Rule about the scarce category Doctors, even in the absence of any indication in the G.O, the Court can go into the validity of the classification of scarce category. Even according to the



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Elizabeth Rajaram's case [cited supra], the prayer for voluntary retirement has been considered on the ground of the Doctor's medical condition and not on the ground of the family circumstances. But, in the case in hand, the ground urged by the petitioner is, fully based upon his family circumstances.

14.At this juncture, it is relevant to refer the argument put forth by the learned Special Counsel. The petitioner, after applying for voluntary retirement on 01.06.2024, has applied for unearned leave from 18.09.2024 to 12.10.2024, and subsequently has extended leave on various grounds and ultimately vide his application dated 12.06.2025, he gave an application for extending the leave on loss of pay upto 15.12.2025. As a matter of fact, the respondent has not denied the medical condition of the petitioners daughters. But, their objection is on two fold. One is that his continuance is absolute necessity in the public interest. The second is, that application for voluntary retirement is not to take care of his daughters, but to have greener pastures of more income.

15.If a Doctor, who applies for voluntary retirement is suffering form serious medical conditions and in spite of the same if we compel

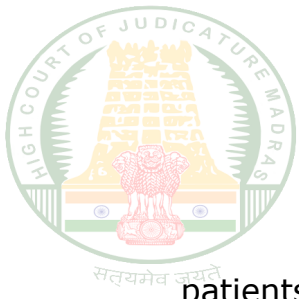


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him to continue in the post, the same would not only prejudice to the health of the Doctor also will prejudice to the health of the patients who would take treatment from him. At the same time, we must also keep in mind that the Doctors are also normal human beings like all of us and will have emotions, shortcomings and difficulties in their families. But in the case in had, in spite of all shortcomings and issues, the petitioner succeeded in getting seat in DM Nephrology under the in-service category by entering a contract that he would remain in service till his superannuation. Therefore, after having entered into a contractual obligation with the Government, that too after knowing his family difficulty, at the fag end of having 5 more year of service cannot retract from his contractual obligation.

16. It is pertinent to mention here that though the petitioner had categorically stated that he needs to take care of his daughters, contrarily he render his service to the needy patients without wasting his efficiency in the field of Nephrology. He rightfully take care the interest of the patients by taking appointment under the banner "Gleneagles hospital". The learned Special Counsel invited the attention of this Court that, even during the leave on loss of pay on the pretext taken to take care of his daughters, he found time to attend



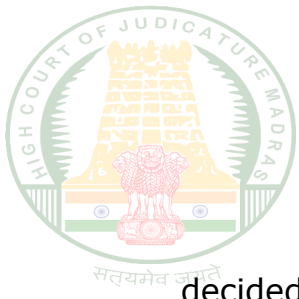
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patients through "Gleneagles hospital", which would palpably demonstrate the capability of the petitioner to find time for his medical service, in spite of his compelling duty to take care of his dependant daughters. The above conduct would demonstrate that the petitioner can continue his public service in Government hospital in spite of his family circumstances.

17. The other way of looking at the issue is that the person who got trained at the expense of the Government, has to give back the fruits of the training to the needy poor patients and society at large. While balancing the two, namely the continuance of the petitioner in Government service for the public duty, and the medical condition of his daughters who are aged about 23 and 15, this Court is of the view that, when the petitioner is able to take care of his daughters, even after attending the patients through "Gleneagles Hospital", there will be no difficulty for him to attend his daughters, while continuing the public service viz., in Government Hospitals. Therefore, this Court does not find any infirmity in the impugned order.

18. At this juncture, the learned counsel relied upon the G.O.(Rt).No.307 dated 22.04.2025, wherein the Government has



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decided to constitute a Committee of Experts to examine and revise the list of rare specialities specified in G.O.(Ms).No.408 dated 15.12.2009.

In view of the such developments, this Court though would like to dismiss the writ petition, is giving liberty to the petitioner to give a fresh representation after the submission of the report by the Committee.

19.Accordingly, this Writ Petition is dismissed with the above direction. There shall be no order as to costs. Consequently, connected WMPs are also closed.

12.09.2025

kmi

Index : Yes/No

Speaking order Order

Neutral Citation : Yes/No

To

1. State of Tamil Nadu
The Additional Chief Secretary to Government,
Health and Family Welfare (A2) Department,
Fort St.George, Secretariat,
Chennai.
2. Directorate of Medical Education and Research,
Medical Department, DMS Campus,
Teynampet, Chennai-6.
3. The Dean,
Institute of Child Health
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C.KUMARAPPAN, J.

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Pre-Delivery Order in
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