



W.P.(MD)No.25012 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 03.11.2025

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD)No.25012 of 2025

and

WMP(MD).Nos.19624, 19625, 19626 & 19627 of 2025

1. C.Lakshmanan
2. K.Sudha
3. K.Vignesh
4. D.Ayishwarya

...Petitioners

Vs

1. The State of Tamil Nadu
Represented by its Principal Secretary
Health and Family Welfare Department
Secretariat
Chennai - 600 009.

2. The Directorate of Medical Education and Research
Represented by its Director
Kilpauk
Chennai - 600 010.

3. The Directorate of Medical and Rural Health Services
Represented by its Director
359, Anna Salai,
Chennai - 600 006.

4. Thanjavur Medical College
Represented by its Dean
Medical College Road
Thanjavur - 613 004.



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5. Dr.V.Mohamed Akram
C/o. Thanjavur Medical College
Medical College Road
Thanjavur - 613 004.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent contained in the transfer and posting order bearing Ref. No.29796/E3/3/2025, dated 03.04.2025, issued in favour of the 5th respondent for the post of Assistant Professor in the Department of Dermatology, Venereology, and Leprosy (DVL), Thanjavur Medical College and to quash the same as arbitrary, unjust and illegal and consequently, direct the 2nd respondent to declare and notify the said post as vacant for the upcoming transfer counselling.

For Petitioner : M/s.Suhrith Parthasarathy

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned transfer and posting order in Ref. No.29796/E3/3/2025, dated 03.04.2025 issued by the 2nd respondent and seeking consequential direction to the 2nd respondent to declare and notify the said post as vacant for the upcoming transfer counseling.



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2. This Court by its short order dated 03.11.2025, had issued directions to include the post of Assistant Professor, Dermatology, Venereology and Leprosy (DVL) in the existing counseling scheduled to be held on **04.11.2025**

3. The learned counsel appearing for the petitioners would submit that the petitioners are all in service Doctors holding the Post Graduate M.D., degree in Dermatology, Venereology and Leprosy (DVL). A transfer counseling was notified in January 2025, in which they were also entitled to participate. In the said counseling, the vacancy of the Assistant Professor in Department of DVL at Thanjavur was not shown as available or vacant during the counseling, but however it had come to their knowledge that in May 2025 a vacancy for the post of Assistant Professor in the Department of DVL, had arisen at Thanjavur Medical College and that on further enquiry, it had been intimated that the same had been offered to the fifth respondent. Therefore, the petitioners have made representation to the second respondent seeking to cancel the order of transfer and posting in respect of the fifth respondent and to fill up the vacancy through counseling and the same had not been considered by the second respondent.

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4.He would submit that the filling up of post, which fell subsequently vacant to the counseling, can only be filled up on temporary basis and the said posting should be included in the subsequent counseling. Without doing so, such post has been filled up by appointing the fifth respondent and he would submit that in the counseling i.e., sought to be conducted on 04.11.2025, the said post had been not shown as vacant, which is in complete violation of the Government Order in G.O.(2D).No.131, dated 20.11.2007. Therefore, he seeks to set aside the order of transfer and posting dated 03.04.2025 issued in favour of the fifth respondent and direct the second respondent to declare and notify the said post as vacant for the upcoming transfer counseling.

5. Countering his arguments, the learned Additional Government Pleader would submit that even under the said Government Order relied upon by the petitioners, transfer could also be made on administrative grounds and the said vacancy had arisen due to the voluntary retirement of the incumbent after the counseling that was held in the month of January 2025 and that the vacancy arose w.e.f., 17.02.2025. Hence, the transfer had been made of a Doctor who had been under the control of



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the Director of Medical Education and Research, Chennai without waiting for the next transfer counseling for fulfilling National Medical Commission in that regard.

6. He would further submit that place of posting cannot be as a matter of right claimed by the petitioners. He would further submit that as on today, there is only one vacancy that had arisen due to unauthorised absence of an Assistant Professor and the same had been included. If the petitioners would envisage their willingness to work in the said Department, the representations could be considered at that time on the basis of seniority. Since due to the exigency of the circumstances for fulfilling the NMC Norms, after transfer counseling, the vacancy was filled up by transferring the fifth respondent in the said post and the said post need not be shown to be vacant as claimed by the petitioners and therefore, he prays this Court to dismiss the Writ Petition.

7. I have considered the submissions made by the learned counsel appearing on either side and perused the materials placed on record.



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8. It is not disputed that the Government Order in G.O.(2D).No. 131, dated 20.11.2007, governs the Counseling System on the guidelines issued for transfer counseling. Heavy reliance had been placed upon by the learned counsel appearing for the petitioners to clause 10.14 of the said Government Order. For better appreciation, the relevant clause is extracted hereunder:-

"10.14. However, vacancies arising in the inter-counselling period which in the opinion of the Director Government cannot be left vacant till next Counselling may be filled up by the Director/Government as the case may be purely on a temporary basis. Similarly when an officer reports for duty from leave or absence, he may be posted temporarily in a vacancy, but such postings should not be done in the institutions in Chennai City and its adjoining districts, Madurai or Coimbatore cities. A report on all such postings made by the Director of Medical Education should be set to the Government for ratification within a week with full justification for the postings. The posts so filled up must invariably be notified as vacancies for the next counselling and the individuals posted temporarily in those posts must.



be directed to appear for counseling. No exceptions should be made to this rule."

9. As indicated in the short order dated 03.11.2025, the said clause would indicate that whenever the vacancy arises subsequent to the counselling, that had been conducted, then such vacancy can only be filled up on temporary basis and should be notified as a vacancy in the next counselling. Even though, the transfer that had been made on administrative grounds, it could be only made on temporary basis in line with the aforesaid clause extracted supra.

10. The learned Additional Government Pleader had relied upon the clause 10.11 of the Government Order to support the contention. For the better appreciation, the relevant clause No.10.11 is extracted hereunder:-

"10.11.Transfer on administrative grounds, or on complaints shall be effected only after conducting a detailed enquiry on the complaints, duly recording the reason in the file. All such transfers should be reported to the Government within a week".



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11. Clause 10 deals with “Criteria and method for promotion/transfer”. Clause 10.11 envisages transfer on administrative grounds or on complaints by duly recording reasons. The same could only be subject to clause 10.13 and clause 10.14.

12. On a perusal of the Clause 10, it could be seen that the transfer on grounds of administrative or allegation would have to be made by recording specific reasoning. In the present case, the reasoning that had been attributed, is that the vacancy arose due to the resignation of an incumbent in the said post. When such vacancy arises, the transfer could only be made in consonance with Government Order. The transfer of any person to the said post could only be made in consonance with clause 10.14 and not under 10.11. The respondents having failed to fill up the said vacancy in consonance with clause 10.14 cannot be heard to say that the said order of transfer had been made in view of the guidelines under clause 10.11. The aforesaid reasons substantiate the directions given by this Court in its short order dated 03.11.2025.

13. In such view of the matter, there shall be a direction to the Respondent Nos.1 to 4 to include the post of Assistant Professor,



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Dermatology, Venereology and Leprosy (DVL) in the existing counseling
scheduled to be held on **04.11.2025** and the Writ Petition stands disposed
accordingly.

03.11.2025

NCC:yes/no
Index:yes/no
Internet:yes/no
gvn/pbn

Note :
Issue order copy on 06.11.2025



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K.KUMARESH BABU, J.

gvn/pbn

To:

1. The Principal Secretary
Health and Family Welfare Department
Secretariat
Chennai - 600 009.

2. The Directorate of Medical Education and Research
Represented by its Director
Kilpauk
Chennai - 600 010.

3. The Directorate of Medical and Rural Health Services
Represented by its Director
359, Anna Salai,
Chennai - 600 006.

4. Thanjavur Medical College
Represented by its Dean
Medical College Road
Thanjavur - 613 004.

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