



W.P.(MD)No.30843 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 03.11.2025

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THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD)No.30843 of 2025

and

WMP(MD).Nos.24037, 24040 & 24042 of 2025

Dr.A.Priya

...Petitioner

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

5. E.Thamilzhkodi
C/o.Thanjavur Medical College
Medical College Road
Thanjavur-613 004.

... Respondents



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Prayer: Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Mandamus directing the 2nd Respondent to cancel the posting order, if any, issued to the 5th respondent in the 4th respondent College and, consequently, issue a transfer and posting order to the Petitioner for the post of Assistant Professor in the Department of Ophthalmology at the 4th Respondent's Medical College.

For Petitioner	: M/s.Suhrith Parthasarathy
For Respondent	
Nos.1 to 4	: Mr.N.Satheesh Kumar
	Additional Government Pleader

ORDER

This writ petition has been filed seeking direction to the 2nd Respondent to cancel the posting order, if any, issued to the 5th respondent in the 4th respondent College and, consequently, issue a transfer and posting order to the Petitioner for the post of Assistant Professor in the Department of Ophthalmology at the 4th Respondent's Medical College.

2.This Court by its short order dated 03.11.2025, had issued directions to include the post of Assistant Professor, Ophthalmology in the existing counseling scheduled to be held on **04.11.2025**.



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3. The learned counsel appearing for the petitioners would submit that the petitioner is in service Doctor holding the post of Assistant Surgeon (Ophthalmology) at Government Headquarters Hospital, Perambalur. A transfer counseling was notified in January 2025, in which she was also entitled to participate. In the said counseling, the vacancy of the Assistant Professor in Department of Ophthalmology at Thanjavur was not shown as available or vacant during the counseling, but however it had come to her knowledge that a vacancy for the post of Assistant Professor in the Department of Ophthalmology, 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.

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



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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 petitioner would envisage her willingness to work in the said Department, the representation 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 petitioner 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.

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



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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 counseling, that had been conducted, then such vacancy can only be



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filled up on temporary basis and should be notified as a vacancy in the next counseling. 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”.

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



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recording specific reasoning. In the present case, the reasoning that had been attributed, is that the vacancy arose due to the promotion of the 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, the Writ Petition is disposed of with a direction to the Respondent Nos.1 to 4 to include the post of Assistant Professor, Ophthalmology in the existing counseling scheduled to be held on **04.11.2025**.

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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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
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4. Thanjavur Medical College
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K.KUMARESH BABU, J.

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