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W.P No. 26933 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2026

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THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P No. 26933 of 2009

Dr.A.Jesudoss

..Petitioner

Vs

1.The Secretary to Government
Health and Family Welfare Department,
Fort St.George, Chennai -9.

2.The Director of Medical Education,
Kilpauk, Chennai -10

..Respondents

Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the 2nd respondent in connection with the impugned order passed by him in ref.No.28687/E1/3/09 dated 16.07.2009 and quash the same and direct the respondents to consider the claim of the petitioner for promotion to the post of Director of the Upgraded Institute and notionally promote the petitioner as Director of Oto-rhino Laryngology., Madras Medical College, Madras for the panel year 1998-99 and grant him all consequential service and monetary benefits.

For Petitioner : Mr. K.Venkatramani

Senior Counsel

for Mr.M.Muthappan

For Respondent : Mrs.M.Sneha

Special Counsel

for Health and Family Welfare



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ORDER

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This Writ Petition has been filed seeking issuance of a Writ of Certiorarified Mandamus to quash the order/communication dated 16.07.2009 issued by the second respondent, whereby the representation submitted by the petitioner seeking promotion to the post of Director, Institute of Oto-Rhinology (ENT), came to be rejected.

2. The petitioner was appointed as Assistant Surgeon on 12.07.1978. He completed his P.G. Diploma in ENT in 1981 and obtained his Master's Degree (M.S.) in ENT in 1985. Thereafter, he was appointed as Assistant Surgeon/Tutor in ENT at Thanjavur Medical College and was promoted as Reader of ENT on 22.02.2002, and later as professor.

3. One Dr. S. Kulasekaran was appointed as Assistant Surgeon in 1977, prior to the petitioner. He was promoted as Reader on 22.02.2002 and later as Professor . Dr.S.Kulasekaran was CML senior . A vacancy to the post of Director, Institute of Oto-Rhinology, arose on 24.07.2008 due to the retirement of Dr. A.K. Sugumar.



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4. In the panel drawn for promotion to the post of Director, Dr. S. Kulasekaran was placed at Serial No.1 and the petitioner at Serial No.2. Based on panel seniority, Dr. S. Kulasekaran was promoted to the post, as he was found to possess the requisite qualifications. The petitioner submitted a representation contending that he was fully qualified and that Dr. S. Kulasekaran did not possess the administrative experience at the relevant time when promotion to the post of Reader became due, as contemplated under Rule 4(c) of the Tamil Nadu Medical Services Rules.

5. The petitioner further stated that he had obtained his M.S. Degree in 1985, whereas Dr. S. Kulasekaran acquired the same only in 1994. According to the petitioner, considering his earlier acquisition of qualification and teaching experience, he was better qualified and entitled to promotion to the post of Director ahead of Dr. S. Kulasekaran. The said representation was rejected by the impugned communication.

6. Learned Senior Counsel for the petitioner submitted that the qualification prescribed for appointment to the post of Director requires



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possession of an M.S. Degree in ENT, minimum prescribed teaching experience

in both undergraduate and postgraduate courses in a recognized medical college, out of which four years must be after acquiring the higher postgraduate degree, and administrative experience in the Department of Oto-Rhinology in a large institution.

7. It was contended that Dr. S. Kulasekaran did not possess the required administrative experience, whereas the petitioner, having served as Head of the Department (ENT), possessed the same. Therefore, denial of promotion to the petitioner is arbitrary and discriminatory.

8. It was further submitted that although Dr. S. Kulasekaran was senior in the Civil Medical List (CML), promotion to the post of Director must strictly comply with the prescribed qualifications. Reliance was placed on the decision of a Co-ordinate Bench of this Court in W.P. No.29391 of 2010 dated 24.02.2020.

9. Per contra, learned counsel for the respondents submitted that Dr. S. Kulasekaran was senior to the petitioner in the Civil Medical List as well as in the promotion panel. He was appointed earlier and ranked above the petitioner



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in the seniority list for the post of Reader. Since he possessed the requisite qualifications under the Rules, his appointment as Director cannot be termed arbitrary.

10. The submissions made by the learned counsel on either side and the materials placed on record have been carefully considered.

11. The petitioner was working as Professor and Head of the Department of ENT at Thanjavur Medical College. Dr. S. Kulasekaran was working as Professor of ENT at Madras Medical College from 2008. The petitioner contends that he had administrative experience as Head of the Department, whereas Dr. S. Kulasekaran, being only one among several Professors in Madras Medical College, did not hold such administrative responsibility.

12. The learned State counsel submitted that there is only one Professor in the ENT Department at Thanjavur Medical College and therefore the petitioner functioned as Head of the Department. In contrast, Madras Medical College has multiple Professors in the ENT Department and Dr. S. Kulasekaran did not function as Head of the Department.



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13. The applicable General and Special Rules governing appointment to

the post of Director of the upgraded Institute of Oto-Rhinology stipulate that appointment shall be made from among non clinical Readers/Professors in ENT by promotion, or by direct recruitment if no suitable candidate is available.

14. The qualification prescribed requires possession of an M.S. Degree in ENT. Both the petitioner and Dr. S. Kulasekaran possess the said degree. The Rules further require a minimum of eight years' teaching experience in the speciality at undergraduate and postgraduate levels, out of which four years must be after acquiring the higher postgraduate qualification. Admittedly, both candidates satisfy this requirement.

15. However, the Rules also require teaching experience in the Department of Oto-Rhinology in a large institution and adequate knowledge and administrative capability in the specialty. The petitioner, having functioned as Head of the Department at Thanjavur Medical College, possessed administrative experience. Dr. S. Kulasekaran, though a Professor at Madras Medical College, did not hold the position of Head of the Department.



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16. Thus, administrative experience forms an essential component of the eligibility criteria. Though Dr. S. Kulasekaran was senior in the Civil Medical List, the Rules mandate fulfillment of all prescribed qualifications. In the absence of the required administrative experience, promotion of Dr. S. Kulasekaran overlooking the petitioner's eligibility cannot be sustained.

17. In identical circumstances, a Co-ordinate Bench of this Court in W.P. No. 29391 of 2010 held that the petitioner therein had served at Thanjavur Medical College, while the third respondent therein had served at Madras Medical College. The Court observed that, in terms of size and infrastructure, both Thanjavur Medical College and Madras Medical College are comparable and qualify as large institutions.

18. The Court further held that the petitioner therein, having functioned as Head of the Department and having possessed greater teaching and administrative experience than the third respondent therein, was better qualified for promotion, even though he was placed below the third respondent in the Civil Medical List (CML).



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19. In light of the above discussion, the rejection of the petitioner's claim for promotion to the post of Director is arbitrary and not in accordance with the Rules. Accordingly, the following order is passed:

- (i) The Writ Petition is allowed.
- (ii) The impugned order dated 16.07.2009 is set aside.
- (iii) The respondents are directed to promote the petitioner to the post of Director notionally, with all attendant service benefits.
- (iv) The respondents shall revise the petitioner's pension and other pensionary benefits flowing from this order and disburse the arrears of pension within a period of three (3) months from the date of receipt of a copy of this order.

17.02.2026

Index : Yes
Internet : Yes
Neutral Citation : Yes/No

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To

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Health and Family Welfare Department,
Fort St.George, Chennai -9.

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Kilpauk, Chennai -10



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HEMANT CHANDANGOUDAR, J.

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