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WP No. 12060 of 2017



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-02-2026

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THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

**WP No. 12060 of 2017
and
WMP No.12918 of 2017**

Dr.Padmapriya.P

Petitioner(s)

Vs

1. The Secretary to Government of Tamilnadu
Health and Family Welfare (A1) Department,
Fort St. George, Chennai 600 009.

2.The Director of Medical Education,
Directorate of Medical Education,
Kilpauk, Chennai 600 010.

3.Dr. K. Nithya,
Assistant Professor of Physical Medicine,
Government Mohan Kumaramangalam,
Medical College, Salem.

4.Dr.B.Jayanthi,
Assistant Professor of Physical Medicine,
Institute of Rehabilitation Medicine,
K.K.Nagar, Chennai.

5.Dr.Jawahar Raja Rathinam,
Assistant Professor of Physical Medicine,
Government Kilpauk Medical College,
Chennai 600 010.



6.Dr.S.Noorul Amin Shahid,
Assistant Professor of Physical Medicine,
Government Coimbatore Medical College,
Coimbatore.

7.Dr.P.Udhayasingh
Senior Resident of Physical Medicine,
Government Thirunelveli Medical, College Hospital,
Thirunelveli.

8.Dr.A.Rajakumar,
Assistant Professor of Physical Medicine,
Institute of Rehabilitation Medicine, K.K.Nagar,
Chennai.

Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari, calling for the records pertaining to the Promotion of Respondents 3 to 8 made in G.O.D.No.891 dated 19.04.2017 so as to quash the same in view of their ineligibility to be appointed on the teaching side in view of the Rules namely Medical Institutions Regulations, 1998 (Amended upto May 2015) Read with G.O.Ms.No. 2355, Health and Family Welfare Department Adhoc Rules framed regarding the Qualification for Associates reader in Physical Medicine and Rehabilitation, Madras Medical College. (Prayer amended vide order dated 08.01.2026 made in WMP.4515 of 2024 in WP.12060 of 2017).

For Petitioner : Mr.N.Jothi
Senior Counsel
for Mr.N.S.Suganthan



For Respondent(s): Mrs.Sneha
Special Counsel for Health and
Family Welfare Department
for Mr.E.Sundaram
Government Advocate for R1
and R2
Mr.G.Sankaran, Senior
Counsel for
Mr.S.Nedunchezhiyan
for R3, R5 to R8
Mr.R.Bharanidharan for R4

ORDER

The challenge in this writ petition is to the order dated 19.04.2017 passed by the 1st respondent, whereby promotion was granted to the respondents 3 to 8 to the post of associate professor in Physical Medicine and Rehabilitation.

2. The petitioner was appointed as an Assistant Surgeon in the year 2009. While serving in the said capacity, the petitioner, as an in-service candidate, pursued a Post Graduate Course in Physical Medicine and Rehabilitation (PMR) at Madras Medical College and successfully completed the same in the year 2018. Thereafter, she was promoted to the post of Senior Resident in the year 2018 and subsequently promoted as Assistant Professor in the year 2019 at Madras Medical College.

3. The private respondents 3 to 8, who are Diploma holders in Physical



Medicine and Rehabilitation, had earlier been promoted to the post of Assistant Professor in the year 2006. In the above circumstances, the first respondent issued the impugned order dated 19.04.2017, whereby the private respondents 3 to 8 were promoted to the post of Associate Professor in the Medical Colleges specified therein against the existing vacancies.

4. The petitioner, while pursuing the second year of her Post Graduate Course in Physical Medicine and Rehabilitation, filed the present writ petition initially challenging the relaxation of Clause 4(i) of the Tamil Nadu Medical Services Adhoc Rules and the consequential G.O.(D) No.718 dated 31.03.2017 issued by the first respondent. Subsequently, the prayer in the writ petition was amended and the challenge was confined only to the Government Order promoting the private respondents 3 to 8 to the post of Associate Professor.

5. Mr. N. Jothi, learned Senior Counsel appearing for the petitioner, assisted by Mr. N.S. Suganthan, learned counsel on record, submitted that the Adhoc Rules relaxing the qualification for promotion to the post of Associate Professor were originally confined only to Madras Medical College. However, the Government, without any authority, has extended the benefit of the said Adhoc Rules to other Medical Colleges where the private respondents are working. According to the learned Senior Counsel, the qualifications prescribed



under the Adhoc Rules are also contrary to the qualifications prescribed by the Medical Council of India (MCI).

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6. The learned Senior Counsel further submitted that the private respondents do not possess a Post Graduate Degree in Physical Medicine and Rehabilitation and are only Diploma holders. Therefore, they are not eligible for promotion to the post of Associate Professor. Though the petitioner was not within the zone of consideration at the time when the private respondents were promoted, the petitioner nevertheless has locus standi to challenge the said promotions, since the private respondents did not possess the requisite qualifications and their promotion would adversely affect the petitioner's seniority in service.

7. It was further contended that the Regulations framed by the Medical Council of India prescribing the qualifications for appointment to the post of Associate Professor and other teaching posts are mandatory in nature and would prevail over any rules framed by the State Government governing the qualifications for appointment to such posts. In support of his submissions, the learned Senior Counsel placed reliance on the decision of this Court in The Tamil Nadu Dr. M.G.R. Medical University vs. P. Anand and others, reported in 2011 (6) CTC 801.



8. In response, Mrs. Sneha, learned Special Counsel appearing for respondents 1 and 2, submitted that the Adhoc Rules were framed due to the contingency arising from the non-availability of suitable candidates for appointment to the post of Associate Professor in Physical Medicine and Rehabilitation. The said Adhoc Rules were framed in exercise of the powers conferred under Article 309 of the Constitution of India. It was further submitted that the promotion of the private respondents, by invoking the Adhoc Rules which have statutory force, cannot be termed illegal unless it is established that the promotions were actuated by mala fides or other illegality. According to the learned Special Counsel, the regulations of the Medical Council of India (MCI) governing promotions to such posts can be relaxed by framing Adhoc Rules to meet emergent situations, and the MCI regulations are only directory in nature. It was also contended that the State Government is competent to frame its own rules prescribing qualifications for promotion.

9. The learned Senior Counsel appearing for the private respondents further submitted that the petitioner lacks locus standi to challenge the promotions granted to the private respondents, since the petitioner was not within the zone of consideration for promotion to the post of Associate Professor at the relevant point of time.



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10. I have heard the submissions made by the learned counsel appearing on either side and carefully considered the materials placed on record.

11. The Government, in exercise of the powers under the proviso to Article 309 of the Constitution of India, framed the Adhoc Rules applicable to the holders of permanent posts of Clinical Readers in Category 9 of Class I in Branch I – Medical of the Tamil Nadu Medical Service, for appointment to the post of Associate Reader, now reclassified as Associate Professor in Physical Medicine and Rehabilitation at Madras Medical College, Madras. As per the said rules, the prescribed qualification is that an Assistant Professor must possess a Degree in Orthopaedics along with a Post Graduate qualification in Physical Medicine, such as a Diploma in Physical Medicine, and must also have teaching experience in the concerned speciality for a period of five years prior to and two years subsequent to acquiring the Post Graduate qualification, or three years prior to and three years subsequent to acquiring the Post Graduate qualification, or four years subsequent to acquiring the Post Graduate qualification. Under the said Adhoc Rules, the private respondents possessed a Post Graduate Diploma in Physical Medicine.

12. The said Adhoc Rule was introduced on 14.09.1971. In the counter affidavit, the Government has stated that since there were no eligible candidates



possessing a Post Graduate Degree in Physical Medicine for appointment to the post of Associate Professor in Physical Medicine and Rehabilitation, the Adhoc Rules were invoked for the purpose of promoting the private respondents to the said post on account of administrative necessity. In paragraph No.6 of the counter affidavit, it has been stated that though respondents 3 to 8 had not fulfilled the educational qualifications prescribed under the Adhoc Rules for the post of Associate Professor in Physical Medicine, they had discharged their duties to the utmost satisfaction of the public. It was further stated that their services were essential for the treatment of poor and needy patients suffering from orthopaedic, neurological, paediatric and plastic surgery related ailments in Government Hospitals, and also for providing training and education to undergraduate and postgraduate medical students.

13. However, the Adhoc Rules specifically stipulate that, in addition to possessing a Diploma in Physical Medicine, a candidate must also possess a Diploma or Degree in Orthopaedics. In the present case, the private respondents do not possess a Degree in Orthopaedics as required under the said Adhoc Rules.

14. The Medical Council of India (MCI) Regulations govern the qualifications required for appointment to the post of Associate Professor as on



the crucial date. As per the MCI Regulations, a candidate must possess a recognised Post Graduate qualification in the concerned subject and must have three years of teaching experience in the subject as Resident/Registrar/Demonstrator/Tutor in a recognised medical college. Further, for appointment to the post of Associate Professor, the candidate must have served as Assistant Professor/Lecturer in the concerned speciality for a period of five years in a recognised medical college.

15. In the present case, the private respondents do not possess a Post Graduate Degree in Physical Medicine and Rehabilitation and are only holders of a Diploma in Physical Medicine and Rehabilitation. Therefore, their appointment to the post of Assistant Professor (feeder category) itself was contrary to the Regulations prescribed by the Medical Council of India. Although the private respondents have served as Assistant Professors in Physical Medicine and Rehabilitation for a period of five years in recognised medical colleges, they did not possess the requisite qualification for appointment to the post of Assistant Professor in the first place. Consequently, they were not qualified for promotion to the post of Associate Professor in terms of the MCI Regulations.

16. Further, the Adhoc Rules relied upon by the respondents were framed specifically for Madras Medical College and there is no material to show that



the said Adhoc Rules were subsequently amended or extended so as to apply to other medical colleges in the State of Tamil Nadu.

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17. Adhoc rules are temporary rules framed by the Government, usually under the proviso to Article 309 of the Constitution of India, to meet urgent administrative needs when regular rules are absent or when suitable candidates are not available. They are intended only as a stop-gap arrangement to address a contingency and ensure continuity in administration. Adhoc rules are not meant to govern recruitment or promotion for an indefinite period. Therefore, adhoc rules cannot permanently replace regular rules or override prescribed qualifications for an unlimited duration.

18. This Court, in *The Tamil Nadu Dr. M.G.R. Medical University vs. P. Anand and others, in W.A. Nos.901 to 909 of 2011 and batch of Writ Petitions, decided on 16.11.2011 and reported in 2011 (6) CTC 801*, while considering the question as to whether the impugned Guidelines framed by the appellant-University were inconsistent or repugnant to Regulation 12(4) of the Medical Council of India Regulations on Graduate Medical Education, 1977, held that the said Guidelines were inconsistent with Regulation 12(4) of the MCI Regulations and could not be said to prescribe higher standards. It was further held that such Guidelines were repugnant to the constitutional scheme.



19. In the present case, the Adhoc Rules relied upon by the respondents are also contrary to the qualifications prescribed under the MCI Regulations. In any event, the said Adhoc Rules were specifically framed for appointment to the post of Associate Professor in Physical Medicine and Rehabilitation in Madras Medical College alone, and the relaxation contemplated under those Rules cannot be extended to other Medical Colleges unless the said Rules are expressly amended to that effect.

20. The learned counsel appearing for the private respondents placed reliance on a Division Bench judgment of this Court in *Albert Rajkumar vs. The Secretary to Government and others*, in *W.P. No.3068 of 2024 dated 12.02.2024*, wherein the Division Bench declined to entertain a writ petition relating to the community status of a person at the instance of a stranger. In that decision, the Division Bench referred to the judgment of the Hon'ble Supreme Court in *Ayaaubkhan Noorkhan Pathan vs. State of Maharashtra and others*, reported in (2013) 4 SCC 465, wherein it was held that a “legal right” means an entitlement arising out of legal rules and may be understood as an advantage or benefit conferred upon a person by the rule of law. It was further observed that the expression “person aggrieved” does not include a person who suffers merely from a psychological or imaginary injury; rather, a person aggrieved must be one whose legal rights or interests have been adversely affected.



21. Relying on the said decision, the learned counsel for the private respondents contended that, as on the crucial date, the petitioner was not within the zone of consideration for promotion and therefore her rights were not adversely affected so as to bring her within the ambit of a “person aggrieved”. However, though the petitioner was not within the zone of consideration at the relevant point of time, it is evident that the private respondents 3 to 8 did not possess the requisite qualifications. Their promotion to the post of Associate Professor has adversely affected the legitimate rights of the petitioner. Insofar as seniority is concerned, the private respondents, who did not possess the requisite qualifications, were promoted in the year 2017, whereas the petitioner, who possesses the required qualification, was promoted to the post of Associate Professor only in the year 2026. Therefore, the petitioner can legitimately claim to be an aggrieved person, since the impugned promotions have the effect of prejudicially affecting her service prospects and seniority.

22. The learned Senior Counsel for the respondents also relied upon the decision of the *Hon’ble Supreme Court in Ashok Kumar Uppal and others vs. State of J&K and others, reported in (1998) 4 SCC 179*, wherein it was held that the Government may exercise its power to relax the rules in cases where hardship is caused in the implementation of those rules, in order to meet a



particular situation or to remedy injustice caused to an individual employee or a class of employees. However, it was also made clear that such power cannot be exercised arbitrarily or capriciously so as to confer undue advantage or favour upon an individual employee.

23. In the present case, the Adhoc Rules were originally framed in the year 1977 and were sought to be invoked in the year 2017. The existing rules require the candidate to possess a Post Graduate Degree in Physical Medicine and Rehabilitation. The said requirement cannot be said to be arbitrary or as causing hardship to the private respondents merely because they do not possess the prescribed qualifications. Relaxation of rules cannot be extended to persons who are otherwise ineligible for appointment or promotion in the feeder category, namely the post of Assistant Professor. If the arguments of the learned Senior Counsel appearing for the private respondents are accepted, it would lead to a situation where, in every case where a candidate does not possess the requisite qualifications, Adhoc Rules could be framed to suit the convenience of such candidates, which would result in an absurd and untenable situation in service jurisprudence. Therefore, the decision of the Hon'ble Supreme Court in Ashok Kumar Uppal does not apply to the facts of the present case.

24. The Tamil Nadu Dr. M.G.R. Medical University Act, 1987 applies to every college and institution specified in the Schedule, as well as to all colleges



and institutions deemed to be affiliated to or approved by the University under the provisions of the Act. Section 22 of the Act deals with the powers of the Governing Council and, under sub-section (13) thereof, the Governing Council is empowered to prescribe the qualifications of teachers in the University Departments, constituent colleges of the University and affiliated colleges through statutes.

25. The State has taken the stand that, as per the relevant service rules governing the Tamil Nadu Medical Services Rules, if no qualified and suitable member is available for appointment to the post of Associate Professor in Physical Medicine and Rehabilitation, certain measures may be adopted. However, in respect of the post of Associate Professor in other specialities, the qualifications have been clearly prescribed, namely that an Assistant Professor must possess a Post Graduate Degree in the concerned speciality. The said Rules do not provide for promotion to the post of Associate Professor from among Assistant Professors who do not possess the requisite Post Graduate qualification.

26. In the light of the aforesaid discussion, this Court is of the considered opinion that the petitioner's seniority has been adversely affected on account of the promotion of the private respondents 3 to 8, who were otherwise ineligible



for such promotion. Therefore, the petitioner has the necessary locus standi to maintain the present Writ Petition. The promotion of the private respondents based on the Adhoc Rules, is contrary to the mandatory provisions contained in the Medical Council of India Regulations. The State, in its counter affidavit, has also admitted that the private respondents did not possess the requisite qualification of a Post Graduate Degree in Orthopaedics, as prescribed under the Adhoc Rules.

27. However, it is also noted that the private respondents have been serving as Associate Professors since the year 2017 and it has been brought to the notice of this Court that the eighth respondent has already retired from service. At this stage, disturbing their promotions would result in hardship and may lead to a miscarriage of justice rather than securing the ends of justice. Therefore, it would suffice if the petitioner is placed above the private respondents in the seniority list of Associate Professors in the State of Tamil Nadu.

28. Accordingly, this Writ Petition stands disposed of with a direction to the respondents 1 and 2 to place the petitioner above the private respondents 3 to 8 in the seniority list of Associate Professors across the State of Tamil Nadu. The said exercise shall be completed within a period of two (2) months from the



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date of receipt of a copy of this order. No costs. Consequently, the connected
Miscellaneous Petition stands closed.

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Jd

Index: Yes/No

Internet: Yes

Neutral Citation: Yes/No



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To

1. The Secretary to Government of Tamilnadu
Health and Family Welfare (A1) Department,
Fort St. George, Chennai 600 009.

2. The Director of Medical Education,
Directorate of Medical Education,
Kilpauk, Chennai 600 010.



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