

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2015

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.7883, 7884 & 7885 of 2015
and
M.P.Nos.1, 1 +1 /2015

Dr.K.Kalaiyarasi ... Petitioner in W.P.No.7883/15
Dr.D.Kanagaraj ... Petitioner in W.P.No.7884/15
Dr.K.Annaraj ... Petitioner in W.P.No.7885/15

Vs

1. The Secretary to Government
Health and Family Welfare Department,
Fort St. George Chennai-9.
2. The Director of Public Health
and Preventive Medicines, Chennai-6.
3. The Director
Directorate of Medical and Rural Health
Services, Chennai-6.
4. The Director
Directorate of Medical Education,
162 EVR Periyar Salai, Kilpauk, Chennai-10.
5. The Secretary
Selection Committee Directorate of Medical
Education, 162, EVR Periyar Salai, Kilpauk,
Chennai-10. ... Respondents in all the W.Ps.

Prayer:- Writ Petition No.14123/13 filed under Article 226 of the Constitution of India for the issuance of a writ of mandamus directing the respondent authorities to grant one additional mark per year of petitioner service in the Rural Medical Institution viz. Villupuram Medical College Hospital Mundiampakkam Village Vikravandi Taluk in accordance with Clause 38 of the Prospectus for admission into Post Graduate Degree/ Diploma Courses 2015-2016 and publish the revised list for counselling for admission to Post

Graduate Courses 2015-16 and permit the petitioners having Roll Nos.11198, 15770 & 12606 to participate in the counselling on the basis of such revised rank.

For Petitioners : Mr.Thangasivam

For Respondents : Mr.S.Gunasekaran

C O M M O N O R D E R

Heard the learned counsel for the petitioners as well as the learned Government Advocate for the respondents.

2. These writ petitions have been filed seeking for a issuance of a writ of mandamus for grant of one additional mark per year of petitioner's service in the Rural Medical Institution viz. Villupuram Medical College Hospital Mundiampakkam Village Vikravandi Taluk in accordance with Clause 38 of the Prospectus for admission into Post Graduate Degree/ Diploma Courses 2015-2016. The petitioners have completed their MBBS degree and they have registered themselves as medical practitioners on the rolls of the Tamil Nadu Medical Council. Thereafter, the petitioner applied for selection to the post of Assistant Surgeon and initially they have been appointed on temporary basis under Rule 10(a)(i) of the Tamil Nadu Civil Services Rules and subsequently they appeared for the screening test conducted by the TNPSC and their services were regularised. The petitioners have now applied for admission to post graduate course pursuant to notification issued by the 5th respondent for the academic year 2015-16 under the quota reserved for service candidates.

3. The short issue which falls for consideration in these cases are as to whether the petitioners are entitled for one additional mark which has been given for service candidates who served in the rural areas by virtue of clause 38 of the prospectus issued by the Tamil Nadu Government Medical Colleges/Self Financing Institutions.

Clause 38 of the prospectus reads as follows:

"One Mark for each completed year after the completion of CRRI shall be awarded as marks for experience for both services and non service candidates to a maximum of Ten marks as on 21.03.2015. Service candidates shall be awarded one mark per year of service in rural areas and two marks per year of service in hilly areas and two marks per year of service in Government Hospitals, Primary Health Centres and Government Medical College Hospitals of Thiruvapur, Nagapattinam and Ramanathapuram Districts limited to a

maximum of 10 marks. Altogether the total marks awarded for experience will be restricted to 10 marks to all candidates including candidates from rural, hilly and remote/difficult areas and the three districts mentioned above.

1) Marks awarded for Entrance examination : Maximum 90 marks

2) Experience marks for all candidates (both Service and Non-service) limited to a maximum of 10 (i+ ii + iii)

(i) One mark per year for experience after CRRRI (All candidates)

(ii) Marks for Service candidates served in rural, hilly and remote/difficult areas :-

- a) Rural areas - 1 mark per year
- b) Hilly areas - 2 marks per year
- c) Remote/difficult areas - 2 marks per year

iii) Two marks per year of Service for candidates who have worked in Government Hospitals. Primary Health Centers and Government Medical College Hospitals of Thiruvarur, Nagapattinam and Ramanathapuram Districts. (only Service candidates as defined in Clause 10)

iv) Non-Service candidates are not eligible to get marks

in (ii) & (iii)

Fractional values of a year will not be counted for awarding marks for experience in i, ii & iii."

4. In terms of the above clause in the prospectus one mark for each completed year after the completion of CRRRI shall be awarded as mark for experience for both services and non service candidates. There is no dispute to the allotment of these marks neither that has been raised in these writ petitions, but the only contention raised is that under Clause (ii) and (iii) the service candidates are awarded one mark per year for serving in rural areas, two marks per year for serving in hilly areas and another two marks per year for serving in Government Hospitals, Primary Health Centers and Government Medical Colleges Hospitals of Thiruvarur, Nagapattinam and Ramanathapuram Districts to a maximum of 10 marks. The contention of the petitioners is that though they have been appointed as junior doctors in the Villupuram Medical College Hospital, Villupuram the said hospital is situated in a town panchayat away from the Villupuram and the Official website of Government Villupuram College Hospital it is stated that, it is located in Mundiampakkam Village and their motto is "Rural Health is Nation's Wealth" and the hospital has been established to serve the rural population. By referring to these passages in the web site of the hospital, it is stated that though the petitioners were appointed as Junior assistant doctors in Villupuram Medical

College Hospital, Villupuram Town Panchayat, they were functioning in a rural area and they are entitled to one mark in terms of clause 38(ii) (a). Further, the petitioners would contend that a person who was selected along with the petitioners and was appointed as a Doctor and posted in the Government Medical College Hospital in Tiruvarur District was awarded with one mark whereas, the petitioners who were appointed on the same footing have not been given one mark though the Government Medical College Hospital is not situated within the Villupuram town. Therefore, it is stated that the petitioner should be granted one mark.

5. After hearing the learned counsel for the petitioner and the learned Special Government Pleader for the respondent, this Court is of the view that the contention raised by the petitioners is clearly based on a wrong premise. It is settled legal principle that a prospectus is the rule governing the selection and it binds not only the candidate as well as the Selection Authority. Clause 38 of the prospectus is very clear and it is stated that the service candidate is entitled to one mark per year of service under the contingency that his service is in a rural area. He will be entitled two marks if he served in a hilly area and two marks if he served in difficult/remote area. Clause 38 is a carves out exception only in respect of three places where a candidate is posted in Government Medical College Hospital and yet he will be entitled to one mark if he is posted to serve in Tiruvarur, Nagapattinam and Ramanthapuram District. Admittedly, the petitioners have not have been posted in any one of those three places but have been placed as junior doctor in Villupuram Government Medical College Hospital. The reference to the official web site of the Government Villupuram Medical College, to state that the hospital is established in Mundiampakkam Village and therefore, they served in rural area is an argument stated to be rejected. The selection to post graduate courses shall be governed by the terms and conditions in the prospectus published by the fifth respondent. The petitioners accepted the terms and conditions and applied for selection and the results of the written test has been declared and at the stage of counseling, the interpretation sought to be given by the petitioners is devoid of merits and thoroughly misconceived. Accordingly, these writ petitions being devoid of merits are dismissed. However, there will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government
Health and Family Welfare Department,
Fort St. George Chennai-9.
2. The Director of Public Health
and Preventive Medicines, Chennai-6.
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5. The Secretary
Selection Committee Directorate of Medical
Education, 162, EVR Periyar Salai, Kilpauk,
Chennai-10.

+1cc to Mr.S.Thangasivam, Advocate, S.R.No.16033

+1cc to the Government Pleader, S.R.No.11064

W.P.Nos.7883, 7884 & 7885 of 2015
and

M.P.Nos.1, 1 +1 /2015

KK(CO)
CA(09/04/2015)

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