

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.36100 of 2015

Dr.M.Sivakumar

... Petitioner

Vs

The Medical Services Recruitment Board (MRB),
represented by its Member Secretary
Government of Tamilnadu,
7th Floor, DMS Buildings,
359, Anna Salai, Teynampet,
Chennai 600 006.

... Respondent

Prayer : Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records of the respondent in Notification No.02/2015 dated 25.10.2015 issued by the respondent inviting applications for Walk-in-Selection for Direct Recruitment to the post of Assistant Surgeon (Speciality) - Anatomy.

For Petitioner : Mr. S. Radha Gopalan

For Respondent : Mr. A.Vivek

ORDER

Heard Mr.S.Radha Gopalan, learned counsel appearing for the petitioner and Mr.V. Jayaprakash Narayanan, learned Special Government Pleader appearing for the respondent.

2. Dr.M.Sivakumar has come to this Court challenging the correctness of the impugned order dated 25.10.2015, whereby, the respondent while issuing the impugned notification dated 25.10.2015, after fixing the last date for receipt of the application as 6.11.2015 for the post of Assistant Surgeon, has also fixed the cut off date for registration date of said qualification as 25.10.2015, on the ground that by the time the notification was issued on 25.10.2015, the petitioner has got the qualification required for the post of Assistant Surgeon.

3. As admittedly the petitioner passed the course of MD in Anatomy. But the only grievance of the petitioner is that as per the impugned notification, the qualification ought to have been registered on or before 25.10.2015. The only grievance advanced before this Court by the petitioner is that although the petitioner has acquired the educational qualification as per the notification on 23.10.2015, in view of the intervening holidays namely Saturday and Sunday i.e., on 24.10.2015 and 25.10.2015, the petitioner was unable to register the same, however, he got it registered immediately on 26.10.2015, after the Government Holidays were over, that too, before the last date for receipt of the application which is on 6.11.2015. The petitioner, while filling up the online application, his application was non entertained due to the reason that date of registration of specialty course should be before the date of notification. Therefore, it was pleaded by the learned counsel for the petitioner that though the petitioner acquired the education qualification as on 23.10.2016, the respondent fixing the cut off date as 25.10.2015 and rejecting the application of the petitioner is absolutely unfair and unjustified.

4. Adding further, he would further submit that by virtue of an interim order passed by this Court on 6.11.2015 in W.P.No.35612/2015 the petitioner was also permitted to take part in the selection process and finally he has been declared as one among the selected candidates. The petitioner's name was also shown in the provisional selection list dated 5.1.2016.

5. In view of the pendency of the above Writ Petition, the respondents have not come forward to issue the order of appointment. Accordingly, he prayed for allowing of the Writ Petition by directing the respondent to issue the appointment order as the petitioner has been found selected as per the selection list dated 5.1.2016.

6. A detailed counter affidavit has been filed by the respondent.

7. Learned Government Advocate appearing for the respondent heavily objected the prayer sought for by the petitioner in the Writ Petition and submitted that all over India, there are many Government and Private Medical Institutions which award post graduation in medical sciences and there is no fixed time schedule for issuance of completion certificate and the actual date of course completion are varying from one college to another, therefore the cut off date fixed by the notification memorandum dated 25.10.2015 for

registration of the educational qualification has to be accepted, otherwise many other persons would be coming with the same causes, as a result, the respondent would not be in a position to proceed with the selection process, therefore, he pleaded for dismissing the petition.

8. Adding further, she would submit that in view of the fact that the cut off date is 25.10.2015 for registration of educational qualification which has been chosen by the respondent, the petitioner's request cannot be complied with, otherwise the standard procedure adopted by the respondent would be fully violated.

9. Although the said objection was taken in the counter and was reiterated by the learned Government Advocate appearing for the respondent appears to be reasonable, the case of the petitioner still stands on a high footing. The reason is that as mentioned above by the learned counsel for petitioner, in view of two intervening holidays Saturday and Sunday which falls on 24.10.2015 and 25.10.2015, the petitioner who has acquired the specified educational qualification could not register the same before the date of notification. Therefore, in the instant case, the benefit of attending the selection process ought to have been given to the petitioner for the simple reason that the petitioner, due to the intervening holidays which falls on Saturday and Sunday, had registered his educational qualification only on 26.10.2015. Consequently after the following the interim order passed by this Court in W.P.No.35612/15 on 6.11.2015, the petitioner had taken part in the selection process and he has come out as one among the selected candidates and his name was also found in provisionally selected list dated 5.1.2016. Therefore, this court finds no impediment for issuing him appointment order. Accordingly, the respondent is directed to issue appointment order to the petitioner.

10. With the above direction, this writ petition stands allowed. No costs. Consequently, the connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

msr

To

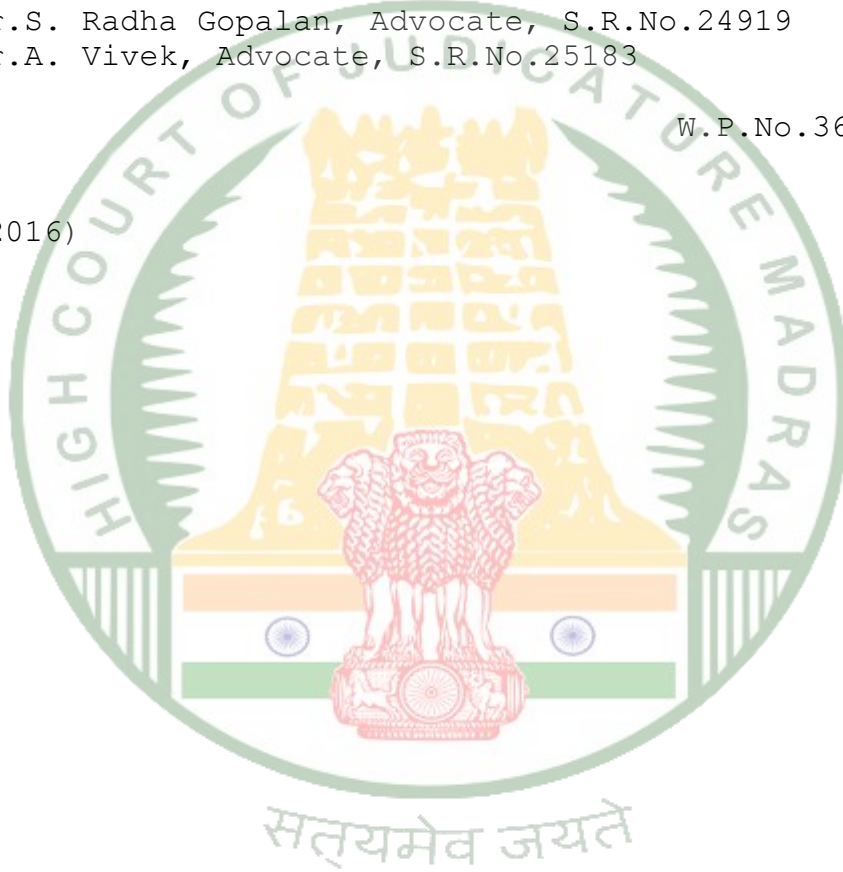
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Chennai 600 006.

+lcc to Mr.S. Radha Gopalan, Advocate, S.R.No.24919

+lcc to Mr.A. Vivek, Advocate, S.R.No.25183

W.P.No.36100 of 2015

KS(CO)
CA(11/05/2016)



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