

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.3877 of 2015

G.Jayalakshmi ... Petitioner

Vs.

1.The Dean,
Government Dharmapuri Medical College,
Dharmapuri.

2.The District Employment Officer,
Dharmapuri. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order of rejection passed by the 1st respondent in Mu.No.4099/Ni.3/2011, dated 03.12.2014 and to quash the same and to direct the 1st respondent to reconsider the petitioner's representation dated 27.06.2014 in the light of the information given by the respondent and to direct the 1st respondent to give posting orders as a Sweeper in the existing 12 vacancies.

For Petitioner : Mr.S.Doraisamy

For respondents : Mr.K.Dhananjayan, Spl GP.

* * * * *

ORDER

This writ petition has been filed by the petitioner praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order of rejection passed by the 1st respondent in Mu.No.4099/Ni.3/2011, dated 03.12.2014 and to quash the same and to direct the 1st respondent to reconsider the petitioner's representation dated 27.06.2014 in the light of the information given by the respondent and to direct the 1st respondent to give posting orders as a Sweeper in the existing 12 vacancies.

2.In the affidavit filed in support of the writ petition, it has been averred by the petitioner as follows_

2-1.The petitioner belongs to Most Backward Class Community and he has studied upto 5th standard. He got registered his name

before the District Employment Officer, Dharmapuri on 17.08.1986 and his date of birth is 09.07.1969. Though, he got registered his name in the year 1986, he was not called for any interview. While so, for filling the vacancy for the post of Sweeper, the 1st respondent had called for the list of candidates from the Employment Exchange, Dharmapuri. The petitioner's name was sponsored by the Employment Exchange. The 1st respondent called the petitioner for the interview scheduled to be held on 24.02.2011 with all the certificates in original. The petitioner appeared for the interview on 24.02.2011. According to the petitioner, considering his seniority and age, the 1st respondent selected the petitioner for the post of Sweeper. However, the petitioner was told that the appointment order will be sent to him very soon. But, he has not received any appointment order. Hence, the petitioner has earlier filed a writ petition in W.P.No.20405 of 2011 seeking to direct the 1st respondent to issue posting orders to the petitioner for the post of Sweeper on the basis of the interview held on 24.02.2011. This Court by order dated 11.06.2014 has dismissed the said writ petition. While dismissing the writ petition, this Court has observed as follows

"3. But, the two page affidavit filed in support of the prayer has not mentioned whether the petitioner has taken any follow up action by giving any written representation about the result of the selection. Without even taking such a minimum effort, the writ petition cannot be filed. Unless the petitioner and this Court know whether anybody else has been appointed, no writ can be issued. Accordingly, the writ petition fails and it is dismissed."

Thereafter, on 27.06.2014, the petitioner gave a representation to the 1st respondent requesting to issue appointment order as per the interview held on 24.02.2011. But, the 1st respondent did not pass any order on his representation. Thereafter, the petitioner had filed another writ petition in W.P.No.27308 of 2014 seeking to direct the 1st respondent to pass orders on his representation dated 27.06.2014 and to issue posting orders for the post of Sweeper on the basis of the interview held on 24.02.2011.

2-2. Thereafter, the 1st respondent passed the impugned order on 03.12.2014 rejecting the representation of the petitioner stating that in the interview date 24.02.2011, only five candidates appeared and out of five candidates, only one candidate, a physically handicapped person, alone was selected and the list of the balance four persons has been sent back to the Employment Exchange and thus, the petitioner was directed to approach the 2nd respondent for his employment.

2-3. But, it is stated by the petitioner that the petitioner's son Arunkumar has got information from the Information Officer of the 1st respondent's office, through Right to Information Act, to the effect that in the interview held on 24.02.2011, totally

34 candidates appeared and out of the total 34 candidates, only 8 persons were selected and they were given appointment orders and as on date, there are 12 vacancies in the post of Sweeper. Hence, against the rejection order dated 03.10.2014 passed by the 1st respondent, the petitioner has come forward with the present writ petition.

3. When the matter is taken up for consideration, the learned counsel for the petitioner would submit that since there are 12 vacancies in the post of Sweeper, a direction could be given to the 1st respondent to give appointment to the petitioner to the post of Sweeper.

4. But, the learned learned Special Government Pleader appearing for the respondents, by filing a detailed counter, would submit that in the interview held on 24.02.2011, the petitioner had also attended, but he was not selected; instead, a physically handicapped women candidate was selected based on her seniority and age. Hence, the names of the petitioner and other candidates were returned back to the Employment Exchange. It is further submitted by the learned Special Government Pleader that the Head of the Department viz., Director of Medical Education has issued proceedings vide proceedings No.54448/E4(2)/2014, dated 25.07.2014, instructing that all the posts in the category of Basis Service (entry level post) which are vacant in all the institutions, to be filled up through the Medical Services Recruitment Board. Hence, the 1st respondent herein is not responsible for appointment to the entry level posts. Thus, the learned learned Special Government Pleader submitted sought for dismissal of the writ petition.

5. Heard both sides and perused the materials available on record.

6. It is submitted by the learned Special Government Pleader, in the interview held on 24.02.2011, out of the five candidates, one handicapped women candidate was selected based on her seniority and age, and she was given appointment. The remaining names of the candidates, including the petitioner, was returned back to the Employment Exchange. Moreover, now the petitioner is aged more than 45 years. Further, the 1st respondent has no authority to give appointment to the entry level posts. Under such circumstances, I do not find any merit in the writ petition and the same liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

-sd/-
Assistant Registrar

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Sub-Assistant Registrar

ssv

To

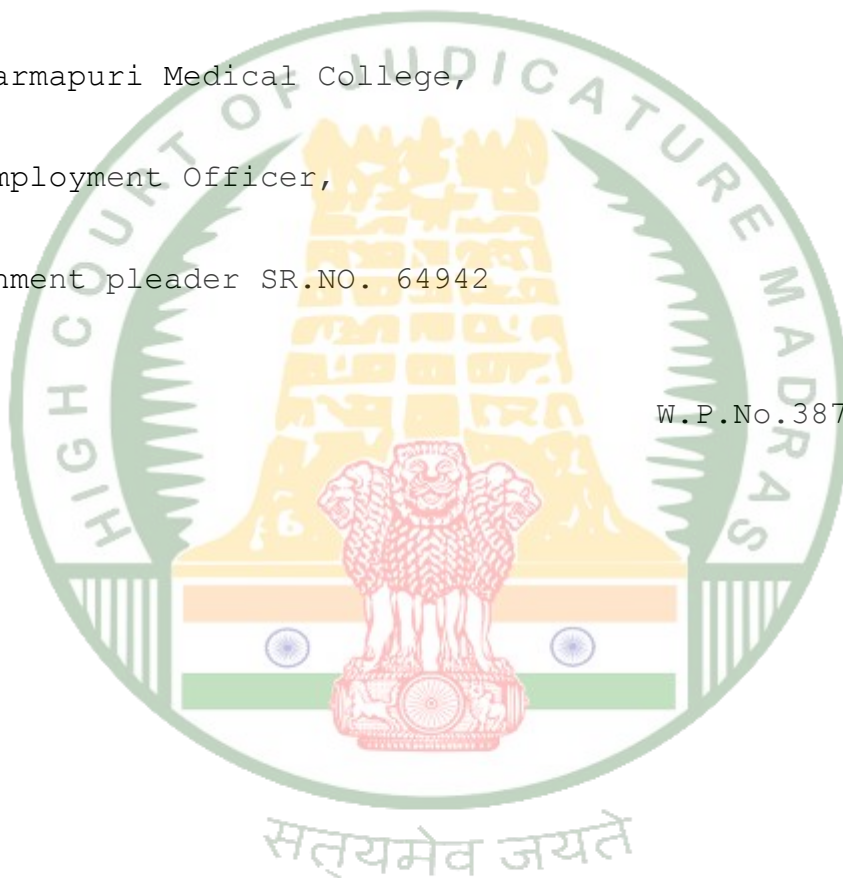
1.The Dean,
Government Dharmapuri Medical College,
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2.The District Employment Officer,
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+1 CC TO Government pleader SR.NO. 64942

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