

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.Nos.6720 and 5886 of 2016
and W.M.P.Nos.5984 and 5985 of 2016
in W.P.No.6720 of 2016
and W.M.P.Nos.5242 and 5243 of 2016
in W.P.No.5886 of 2016

Dr.Keerthika.S. ... Petitioner in W.P.No.6720 of 2016

1. Dr.Subashini.S.
2. Dr.Loganayagi.D
3. Dr.Senthil Nathan.P
4. Dr.Dinesh Kumar.N
5. Dr.Saravanan.G
6. Dr.K.Saranya Devi
7. Dr.Gopikumar.S

... Petitioners in W.P.No.5886 of 2016

Vs.

1. Government of Tamil Nadu,
Rep. by the Secretary to Government,
Health and Family Welfare Department,
Fort St.George, Chennai-9.
2. The Director of Public Health and Preventive Medicine,
No.359, Anna Salai, DMS Complex,
Chennai-600 006.
3. The Director of Medical Education,
Kilpauk, Chennai-600 010.
4. Medical Services Recruitment Board,
Represented by its Secretary,
7th Floor, DMS Building,
359, Anna Salai, Chennai-600 006.
5. Tamil Nadu Public Service Commission,
Represented by its Secretary,
Frazer Bridge Road, V.O.C.Nagar,
Park Town, Chennai, Tamil Nadu-600 003.

6. The Secretary,
Selection Committee,
Director of Medical Education,
162, E.V.K.Periyar Salai,
Kilpauk,
Chennai-600 010...Respondents in both the Writ Petitions

Common Prayer:- Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of Writs of Mandamus to direct the respondents 1 to 4 to conduct the special examination and to regularise the services of the petitioners from the date of appointment and consequently direct the sixth respondent to treat the petitioners as service candidates for selection and admission to the post-graduate course pursuant to the Notification, dated 03.01.2016.

For Petitioners : Mr.D.Prabhu Mukunth Arunkumar

For Respondents : Mrs.P.Rajalakshmi,
Govt. Advocate for RR-1 to 3 and 6
Mr.Vivek for R-4
Ms.C.N.G.Niraimathi for R-5

ORDER

The petitioners have filed these Writ Petitions praying for issuance of Writs of Mandamus to direct the respondents 1 to 4 to conduct the special examination and to regularise the services of the petitioners from the date of appointment and consequently direct the sixth respondent to treat the petitioners as service candidates for selection and admission to the post-graduate course pursuant to the Notification, dated 03.01.2016.

2. The petitioners are registered medical practitioners registered in the Tamil Nadu Medical Register of the Tamil Nadu Medical Council and are post-graduate diploma holders in various faculties. They were sponsored by the third respondent and appointed by the second respondent as Temporary Assistant Surgeon (Specialists) among the non-service post-graduate candidates under Rule 10(a)(1) of the General Rules of the Tamil Nadu State and Subordinate Services Rules under Category 2 of Clause 1 of the Tamil Nadu Medical Services and the petitioners are posted in the Government Hospitals. The petitioners have completed more than two years service as Assistant Surgeon (Specialists) from non-service post-graduate candidates sponsored by the third respondent and appointed by the second respondent.

3. It is the further case of the petitioners that the fourth and fifth respondents should have conducted special examination as

done in the earlier batch of non-service post-graduate candidates who were similarly appointed. The last special qualifying examination was conducted by the fifth respondent for candidates under the said Rule 10(a)(i) appointed as on 12.12.2012. Hence, the petitioners submitted representations to the first respondent to conduct the said examination and to regularise the petitioners' service and convert their services under in-service candidates.

4. It is further stated by the petitioners, that at present, the fourth respondent is the authority in the place of the fifth respondent to conduct such special qualifying examination as per G.O.(Ms).No.243, Health and Family Welfare (C2) Department, dated 13.08.2015. The special examination has not been conducted till date. In the meantime, the sixth respondent issued Prospectus dated 03.01.2016 calling for application for admissions to the post-graduate degree/Diploma/six year M.Ch (Neuro Surgery) courses. The petitioners have applied for post-graduate course and the examination was to be held on 14.02.2016 and they have also written the examination and the counselling is scheduled to be held in March/April 2016.

5. It is the further case of the petitioners that selection for the post-graduate course service candidates are given 50% reservation, additional service marks and continuity of service. As per the Clause 10(a)(2)(c) of the said Prospectus, the applicants will be considered as service candidates, if they have been selected by the TNPSC/Medical Recruitment Board through competitive written examination at the time of counselling and have completed more than two years/three years of service. It is the grievance of the petitioners that the fourth respondent selected Assistant Surgeons (Specialists) through written examination in 2013 and appointed them as such, who are juniors to the petitioners considering those candidates as service candidates. The petitioners are waiting for the special qualifying examination to be conducted, as they are appointed after 12.12.2012, as on which date, the TNPSC/MRB conducted special examination for all the candidates sponsored by the third respondent and appointed by the second respondent under the said Rule 10(a)(i). The respondents have not taken steps for conducting the special qualifying examination and if such special qualifying examination is not conducted, the petitioners will be deprived of the benefits of service candidates entitled for 50% quota with additional service marks and continuity of service in the selection for post-graduate course. Hence, the petitioners have filed the Writ Petitions for the relief stated supra.

6. Heard both sides.

7. Taking into account the facts and circumstance of the case, without going into the merits of the case, this Court directs the petitioners to give fresh representations to the

respondents 4 to 6, ventilating their grievances as stated in these Writ Petitions, along with a copy of this order, within a period of one week from the date of receipt of a copy of this order, and if such representations are filed, the respondents 4 to 6, in consultation with the respondents 1 to 3, are directed to pass appropriate orders on those representations and dispose of the said representations within a period of three weeks thereafter, in accordance with law, by applying the relevant G.O. issued by the first respondent from time to time. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioners and it is for the concerned respondent to decide the same while disposing of the representations.

8. With the above observations and directions, the Writ Petitions are disposed of. No costs. W.M.Ps. are closed.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

cs

To

1. The Secretary to the Government of Tamil Nadu, Health and Family Welfare Department, Fort St.George, Chennai-9.
2. The Director of Public Health and Preventive Medicine, No.359, Anna Salai, DMS Complex, Chennai-600 006.
3. The Director of Medical Education, Kilpauk, Chennai-600 010.
4. The Secretary Medical Services Recruitment Board, 7th Floor, DMS Building, 359, Anna Salai, Chennai-600 006.
5. The Secretary Tamil Nadu Public Service Commission, Represented by its Secretary, Frazer Bridge Road, V.O.C.Nagar, Park Town, Chennai, Tamil Nadu-600 003.

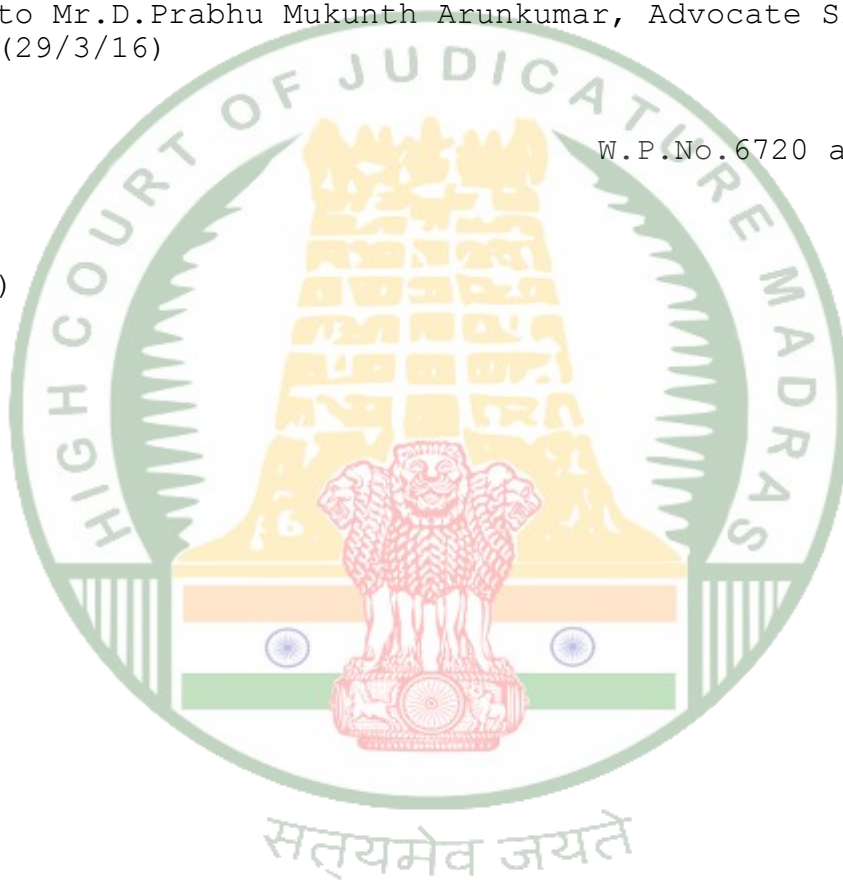
6. The Secretary,
Selection Committee,
Director of Medical Education,
162, E.V.K.Periyar Salai,
Kilpauk, Chennai-600 010.

1 cc to Mr.D. Prabhu Mukunth Arunkumar, Advocate, Sr. 14061
1 cc to Government Pleader, Sr. 14276

+ 1 cc to Mr.D.Prabhu Mukunth Arunkumar, Advocate Sr
14060 (29/3/16)

W.P.No.6720 and 5886 of 2016

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