



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2016

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P(MD)No.855 of 2014

and

M.P(MD)No.1 of 2014

S.Yassin Mohammed

... Petitioner

vs.

1)The Medical Services Recruitment Board,  
Rep. by its Member Secretary,  
7<sup>th</sup> Floor, DMS Building,  
359, Anna Salai, Teynampet,  
Chennai-600 006.

2)The Director of Employment and Training,  
Guindy, Chennai-600 032.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 1<sup>st</sup> respondent to include the petitioner's name in the list of candidates published along with Notification issued by him vide Notification No.01/MRB/E4/2014 dated 09.01.2014 for Certificate Verification to be held from 20.01.2014 to 30.01.2014 thereby consider his case for appointment to the post of Pharmacist within the time that may be stipulated by this Hon'ble Court.

For Petitioner : Mr.D.Selvam for Mr.G.Thalaimutharasu

For Respondents : Mr.R.Anandharaj, Government Advocate

#### ORDER

The petitioner is a physically challenged person with 60% disability. However, after completing his SSLC, HSC and Diploma in Pharmacy, enrolled his name in the Employment Exchange in the year 2001 and his registration Number is TDJ2001M00007403. After registering his name in the Employment Exchange, he was called twice for certificate verification, based on his seniority in the Employment Exchange. Although he had participated in the same, he was not selected. While he was waiting eagerly for an opportunity to get an employment in Government service, he was called for a certificate verification on 24.07.2013 issued by the 1<sup>st</sup> respondent. However, no verification was done on the said date, citing a reason that the recruitment process was stayed by this Court.



2. In view of the above, the 1<sup>st</sup> respondent instructed the petitioner and others, who attended certificate verification, to fill up an Application Forms with the necessary particulars. Accordingly, the petitioner has also filled up the same and handed over the Application to the officials attached to the 1<sup>st</sup> respondent Board. While so, in the subsequent certificate verification for recruitment to the post of Pharmacist, to fill up 1445 vacancies, for which, Notification dated 09.01.2014, was issued, his name was not included, therefore, the petitioner has made an enquiry with the Board for non inclusion of his name in the list. But he was informed that he was not sponsored by the Employment Exchange. Immediately thereafter, the petitioner has made a representation, citing that he was already invited to take part in the certificate verification on 24.07.2013 by the 1<sup>st</sup> respondent, therefore, his seniority was already accepted by the 1<sup>st</sup> respondent, hence, failure to include his name in the subsequent certificate verification, is totally untenable.

3. In the meanwhile, as respondents were not considering his representation and his request made therein and proceeded to fill up the vacancies, the petitioner came to this Court with this writ petition in the year 2014 and fortunately enough, this Court considering the fact that the petitioner was already informed to take part in the certificate verification on 24.07.2013, passed an interim order dated 30.01.2014, directing the 1<sup>st</sup> respondent to keep one post of Pharmacist vacant. Pursuant thereto, the 1<sup>st</sup> respondent has filed a Counter Affidavit.

4. Learned counsel for the petitioner submitted that even in paragraph 4 of the counter, the 1<sup>st</sup> respondent has admitted the case of the petitioner that the petitioner was called for certificate verification on 24.07.2013, however, he has not been selected. Again, drawing the notice of this Court to the relevant portion of the counter, it has been stated when the 1<sup>st</sup> respondent has admitted the case of the petitioner that Thiru.S.Yassin Mohammed was sponsored in the 14<sup>th</sup> place in BCM General Priority in the list sent by the Director of Employment and Training, Guindy, Chennai, vide proceedings in Tho.pa./24122/2012 dated 24.08.2012, there is no any justification on the part of the respondents in not inviting the petitioner for the subsequent certificate verification to fill up the future vacancies. On this basis, it was prayed by the learned counsel for the petitioner that the interim order to keep one post of Pharmacist granted should be made absolute.

5. A detailed counter affidavit has been filed. Mr.R.Anandharaj, learned Government Advocate strenuously contended that it is not in dispute that the petitioner was found eligible in the list of candidates sponsored by the Employment Exchange for the 3 vacancies arose in BCM priority category for the year 2012-2013. The petitioner was found in the 14<sup>th</sup> place and therefore, he was not selected. Subsequently, the selection was also cancelled.



Thereafter the entire colour of reservation has got a change by introduction of some priority categories like, destitute widows, candidates belonging to inter-caste marriage, land losers category and ex-servicemen etc. In view of adding more priority categories along with physically handicapped category, subsequently the chance of getting into the zone of consideration in respect of petitioner's category stood reduced and even in the year 2014, when two vacancies arose in the same BCM priority category, by following 1:5 category, 10 candidates were sponsored and the petitioner's seniority was not ripen. Again in the year 2016, the petitioner's position has been found only in the 11<sup>th</sup> place. As on today, there are 6 vacancies, therefore, if the petitioner applies for direct recruitment, he pleaded, his case would be considered, by following the selection process going to be adopted by the Tamil Nadu Medical Recruitment Board.

6.Considering the fact that the petitioner was invited to take part in the certificate verification on 25.09.2012 and subsequent to the order of interim stay granted by this Court in W.P.No.23109 of 2012, the selection was cancelled and also keeping in mind that the petitioner is a physically challenged person, this Court directs the respondents to appoint the petitioner in any one of the 6 vacancies. Such exercise shall be done within a period of six weeks from the date of receipt of a copy of this order.

With the above direction, this Writ Petition is allowed. No costs. Consequently, M.P(MD)No.1 of 2014 is closed.

Sd/-

Assistant Registrar (Writ)

/True Copy/

Sub Assistant Registrar

nbi

To

1) The Member Secretary,  
The Medical Services Recruitment Board,  
7<sup>th</sup> Floor, DMS Building,  
359, Anna Salai,  
Teynampet, Chennai-600 006.

2) The Director of Employment and Training,  
Guindy, Chennai-600 032.

+1 cc to Mr.G.THALAIMUTHARASU, Advocate, Sr.No: 50072  
+1cc to M/S Special Government Pleader, Sr No. 50205

JAM/SKS-RR/26.09.16 3P-5C