

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
W.P.No.10687 of 2017
and
W.M.P.No.11635 of 2017

Dr.Ms.Mahaminu

... Petitioner

v.

1. The Director of Public Health and
Preventive Medicine,
No-359, Anna Salai,
Chennai 600 006.

2. Government of Tamil nadu,
Medical Services Recruitment Board, (MRB),
7th Floor, DMS Building,
359, Anna Salai,
Teynampet, Chennai 600 006.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 and 2 herein to accept the petitioner's undertaking as per Clause 14 A (i) of Special Instructions contained in Notification No.12/MRB/2016 dated 10.11.2016 for willingness to serve in Government Primary Health Centres for a period of not less than three years excluding any period spent on training, leave or higher Education (Asst. Surgeon - General) within a reasonable time fixed by this Court and pass such further or other orders as may deem fit.

For Petitioner : Mr.V.Manohar

For Respondents : Mr.T.M.Pappiah,
Special Government Pleader

ORDER

This writ petition has been filed by the petitioner seeking a Writ of Mandamus, directing the respondents 1 and 2 herein to accept the petitioner's undertaking as per Clause 14 A (i) of Special Instructions contained in Notification No.12/MRB/2016 dated 10.11.2016, for willingness to serve in Government Primary Health Centres for a period not less than

three years excluding any period spent on training, leave or higher Education (Asst. Surgeon - General), within a reasonable time fixed by this Court.

2.The petitioner is a Doctor and now pursuing his higher Studies M.D Anaesthesiology at Government Theni Medical College. In the mean while, pursuant to the notification No.12/MRB/2016 dated 10.11.2016, calling for application from the eligible candidate for the post of Assistant Surgeon (General) for 1079 vacancies and to the tune of 144 backlog vacancies totalling 1223 vacancies, the petitioner applied for the same and participated in the examination and thereafter, he became successful. The second respondent by notification No.12/MRB/2016 dated 21.02.2017 called the petitioner and other selected candidates for certificate verification on 10.03.2017. On the said date, the petitioner produced all the mandated documents except the original degree certificate which was retained by the Government Theni Medical College, wherein, the petitioner is pursuing his P.G degree. In this regard, the petitioner also produced a bona fide certificate obtained from the Dean, Government Medical College, Theni. The grievance of the petitioner is that though he was selected as per Notification No.12/MRB/2016 dated 24.03.2017, the respondents put him under the "withheld candidates" for non-production of certain mandated documents. The respondents have also provided 30 days time limit for the production of the said mandate document.

3.According to the petitioner, since, he has already submitted a bona fide certificate issued by the Dean, Government Medical College, Theni, and since, he is pursuing his higher studies in M.D Anaesthesiology, in the Government Medical College, Theni, he may be furnished appointment order and granted extension of time to join duty.

4.Mr.T.M.Pappiah, learned Special Government Pleader would submit that since, there is an urgency, the Government has decided to fill up the vacancies in the post of Assistant Surgeon (General) and therefore, there is no scope for the respondents either to issue appointment order to the petitioner without furnishing the mandatory document viz., the original degree certificate or to give extension of time to the petitioner to join duty. Further, if this opportunity is given to the petitioner, there is a chance for the other selected candidates also to approach the respondents for the same relief. This will open a huge pandora box to others, hence he pleaded for dismissal of this petition.

5.I have considered the above submissions made by the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents.

6.This Court is of the view that unless, there is violation of principles of natural justice, this Court cannot interfere with the decision of the Government especially, in selection process to the post of Assistant Surgeon. I find justification in the submission made by the learned Special Government Pleader. Hence, the writ petition is liable to be dismissed.

7.In the result, the writ petition is dismissed however, it is left to the petitioner either to chose to continue his higher studies in M.D Anaesthesiology at Government Theni Medical College, or else, join the post of Assistant Surgeon (General) by producing his original degree certificate, before the respondents. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

Jbm

To

1. The Director of Public Health and Preventive Medicine,
No-359, Anna Salai,
Chennai 600 006.
2. Government of Tamil nadu,
Medical Services Recruitment Board, (MRB),
7th Floor, DMS Building,
359, Anna Salai,
Teynampet, Chennai 600 006.

+1cc to Government Pleader, SR.No.25661
+1cc to Mr.V.Manohar, Advocate in SR.No.25355

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and
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SVI (CO)
CS/31/05/17