

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.24730, 24731, 24113, 24114, 23816
to 23818, 23984, 24145, 24483, 24778 to 24783, 25065, 25104,
22952, 23093 & 23094 of 2013
and
connected Miscellaneous Petitions

Dr.M.Kalaiselvi ...Petitioner in WP.No.24730 of 2013
Dr.C.Subathra ...Petitioner in WP.No.24731 of 2013
Dr.E.Yuvaraj ...Petitioner in WP.No.24113 of 2013
Dr.P.Aravind ...Petitioner in WP.No.24114 of 2013
Dr.Subbiah Sriram ...Petitioner in WP.No.23816 of 2013
Dr.Dhivya Devi ...Petitioner in WP.No.23817 of 2013
Dr.Hemalatha ...Petitioner in WP.No.23818 of 2013
1.Dr.C.Sanjeevi ...Petitioner in WP.No.23984 of 2013
2.Dr.D.R.Brindha
3.Dr.S.Aarthi
4.Dr.A.Mohamed Ibrahim
5.Dr.N.Murugan
6.Dr.K.Raja
7.Dr.V.Muthupandi
8.Dr.J.Ilayaraja
9.Dr.M.Suresh Kumar
10.Dr.R.Vinoth Gowthaam
11.Dr.R.Kesavan
12.Dr.A.Subadhradevi
13.Dr.C.Saranya
14.Dr.A.Ayyannar
15.Dr.R.Karthikeyan
16.Dr.A.K.Hariprasath
17.Dr.B.Prithivirajan

Dr.Tamil Poonuilmozhi.D ...Petitioner in WP.No.24145 of 2013
S.Sharath Kumar ...Petitioner in WP.No.24483 of 2013
Dr.Kalpana Thilagam.I ...Petitioner in WP.No.24778 of 2013
Dr.D.Prabhakaran ...Petitioner in WP.No.24779 of 2013
Dr.Manthiri Kumar.G ...Petitioner in WP.No.24780 of 2013
Dr.Kathirvel.J ...Petitioner in WP.No.24781 of 2013
Dr.Balraj.B ...Petitioner in WP.No.24782 of 2013
Dr.Nirmalkumar.T ...Petitioner in WP.No.24783 of 2013
S.Aiswarya ...Petitioner in WP.No.25065 of 2013
N.Bindu ...Petitioner in WP.No.25104 of 2013

A.Arthy	...Petitioner in WP.No.22952 of 2013
Arivazhagan	...Petitioner in WP.No.23093 of 2013
Dhakshana Pushpanathan	...Petitioner in WP.No.23094 of 2013

- 1 THE STATE OF TAMIL NADU
REP. BY THE SECRETARY HEALTH AND FAMILY
WELFARE DEPARTMENT
FORT ST. GEORGE CHENNAI- 9.
...1st Respondent in WP.Nos.24730,24731,
24113,24114,23816,23817,23818,23984,
24145,25065,and 25104
- 2 THE DIRECTOR OF PUBLIC HEALTH
AND PREVENTIVE MEDICINE
DIRECTOR OF MEDICAL SERVICES CAMPUS,
NO.359, ANNASALAI
CHENNAI-6.
...2nd Respondent in WP.Nos.24730.24731 and
3rd Respondent in WP.Nos.24483,25065,
25104,22952,23093, & 23094/2013
- 3 THE MEMBER SECRETARY
MEDICAL SERVICES RECRUITMENT BOARD, 359,
7TH FLOOR, DMS BUILDINGS, ANNA SALAI,
TYENAMPET CHENNAI-6.
...3rd Respondent in WP.Nos.24730,24731 and
...2nd Respondent in WP.Nos.24113,24114,
23816,23817,23818,23984,24145,
25065,25104 and
...1st Respondent in WP.Nos.24483,24478 to
24483, 22952,23093 & 23094/2013
- 4 DR.VIDUTHALAI VENDHAN
...4th Respondent in WP.Nos.24730&24731/2013
- 5 DR.THENRAL
...5th Respondent in WP.Nos.24730&24731/2013
- 6 DR.VINODH KUMAR ...6th Respondent inWP.Nos.24730&24731/2013
- 7 DR.BRINDA ...7th Respondent in WP.Nos.24730& 24731/2013

8 THE DIRECTOR OF MEDICAL
SERVICES, NO.359-DMS
COMPOUND, ANNASALAI,
CHENNAI-6

...2nd Respondent in WP.Nos.24483,22952,23093 &
23094/2013

...3rd Respondent in WP.Nos.25065 & 25104/2013

9 SHAMEEMA

...4th Respondent in WP.No.24483/2013

10 THE TAMILNADU
DR.MGR MEDICAL UNIVERSITY,
REP.BY THE REGISTRAR
NO.69, ANNASALAI, GUINDY,
CHENNAI 600 032

... 2nd Respondent in WP.Nos.24778,
24779, 24780, 24781, 24782 and
24783/2013

... 4th Respondent in WP.No.25065 &
25104/2013

Prayer in WP.Nos.24730 & 24731 of 2013: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the third respondent's proceedings made in Notification No.5/MRB/E4/2013 dated 21.08.2013, to quash the same in so far as it includes respondents 4 to 7 are concerned and to consequently direct the respondents to appoint the petitioner forthwith as Assistant Surgeon (General) pursuant to the Notification 01/2013 dated 31.03.2013 of the second respondent by taking into account the last date of the completion of Compulsory Rotatory Resident Internship (CRRI) i.e., 30.03.2013 or in alternate the date of certificate verification as the criteria for the purpose of Appointment and to extend all benefits arising thereto.

Prayer in WP.Nos.24113, 24114, 23816, 23817, 23818,
23984, 24145 of 2013:

Directing the respondents to consider and appoint the petitioner herein as Assistant Surgeon (General) on the basis of the Notification 01/2013 dt 31.3.2013 of the 2nd respondent by taking into account the last date of the completion of Compulsory Rotatory Resident Internship (CRRI) i.e. 30.3.2013 or in the alternate the date of certificate verification as the criteria for the purpose of Appointment and to extend all benefits arising thereto.

Prayer in WP.No.24483 of 2013:

To call for the records relating to the Corrigendum / Addendum dated Nil issued in Official Website of the 1st Respondent in so far as it relates to Corrigendum issued for modification of Instructions 9(d) [Page 11] of the Instructions to the candidates issued by the 1st respondent in Notification No.1/2013 dated 31.03.2012 and the consequential Notification No.5/MRB/E4/2013 dated 21.8.2013 published in the official website of the 1st Respondent and quash the same and to consequently direct the 1st Respondent to consider the Petitioner for selection and appointment to the Post of Assistant Surgeon (General) pursuant to the Notification No.01/2013 dated 31.03.2013 issued by the 1st Respondent.

Prayer in WP.No.24778 to 24783 of 2013:

Calling for the entire records pertaining to the appointments made towards the Post of Assistant Surgeon (General-MBBS) conducted by the Medical Services Recruitment Board the 1st respondent herein and quash Section 9(d) of Notification 1/2013 titled Instruction to Candidates and Corrigendum dated 9.4.2013 amending Section 9(d) both issued by the 1st respondent as arbitrary and unreasonable being violative of rules and principles of natural justice and thereby direct the 1st respondent herein to consequentially declare the petitioner to be eligible for the Post of Assistant Surgeon (General-MBBS)

Prayer in WP.Nos.25065, 25104 of 2013:

To call for the records relating to the Corrigendum/ Addendum dated Nil issued in Official Website of the 2nd respondent in so far as it relates to Corrigendum issued for modification of instructions 9(d) (Page 11) of the Instructions to the candidates and quash the same and to consequently direct the 2nd respondent to consider the petitioner for selection and appointment of Assistant Surgeon (General) pursuant to the Notification No.01/2013 dated 31.3.2013 issued by the 2nd respondent by passing appropriate orders.

Prayer in WP.No.22952 of 2013:

To call for the records relating to the Corrigendum/ Addendum dated Nil issued in Official Website of the 1st respondent in so far as it relates to Corrigendum issued for modification of instructions 9(d) (Page 11) of the Instructions to the candidates issued by the 1st respondent in Notification No.1/2013 dated 31.3.2012 and quash the same and to consequently direct the 1st respondent to consider the petitioner for selection and appointment to the Post of Assistant Surgeon (General) pursuant to the Notification No.01/2013 dated 31.3.2013 issued by the 1st respondent.

Prayer in WP.Nos.23093 & 23094 of 2013:

calling for the records relating to the Corrigendum/Addendum dated Nil issued in the Official Website of the 1st respondent in so far as it relates to the modification of instructions 9 (d) (page 11) of the instruction to the candidate issued by 1st respondent in Notification No.1/2013 dt 31.3.2013 quash the same and direct the respondents to consider the petitioner for the post of Assistant Surgeon (General) pursuant to the notification 1/2013 dt 31.3.2013

W.P.Nos.24730 & 24731 of 2013

For Petitioner : Mr.L.Chandrakumar
For Respondents : Mrs.K.Bhuvaneshwari
Government Advocate (For R1 & R2)
Mr.A.Vivek (For R3)

W.P.No.24483 of 2013

For Petitioner : Mr.G.Sankaran
For Respondents : Mr.A.Vivek (For R1)
Mrs.K.Bhuvaneshwari
Government Advocate (For R2 & R3)

W.P.No.24113 & 24114, 23816 to 23818, 23984 of 2013

For Petitioner : Mr.L.Chandrakumar
For Respondents : Mrs.K.Bhuvaneshwari
Government Advocate (For R1)
Mr.A.Vivek (For R2)

W.P.No.24145 of 2013

For Petitioner : Mr.J.Prakasam
For Respondents : Mrs.K.Bhuvaneshwari
Government Advocate (For R1)
Mr.A.Vivek (For R2)

W.P.No.24778 to 24783 of 2013

For Petitioner : Mr.N.Surya Senthil
For Respondents : Mr.A.Vivek (For R1)
Mr.P.R.Gopinathan (R2)
Special Government Pleader

W.P.No.25065 & 25104 of 2013

For Petitioner : Mr.G.Sankaran
For Respondents : Mrs.K.Bhuvaneshwari
Government Advocate (For R1 & R3)
Mr.A.Vivek (For R2)
Mr.P.R.Gopinathan (For R4)
Spl. Government Pleader

W.P.No.22952 of 2013

For Petitioner : Mr.G.Sankaran
For Respondents : Mr.A.Vivek (For R1)
Mrs.K.Bhuvaneshwari
Government Advocate (For R2)

W.P.No.23093 & 23094 of 2013

For Petitioner : Mr.R.N.Amarnath
For Respondents : Mr.A.Vivek (For R1)
Mrs.K.Bhuvaneshwari
Government Advocate (For R2)

COMMON ORDER

The relief sought for in these writ petitions are to call for the records and quash the same and consequently direct the respondents to appoint the petitioners forthwith as Assistant Surgeon (General) pursuant to the Notification 01/2013 dated 31.03.2013, by taking into account the last date of the completion of Compulsory Rotatory Resident Internship (CRRI) i.e., 30.03.2013 or in alternate, the date of certificate verification as the criteria for the purpose of Appointment and to extend all benefits arising thereto.

2.The learned counsel for the petitioners states that all the writ petitioners have provisionally registered their names in the Medical Counsel of Tamil Nadu and there was a delay for permanent registration of the names of the writ petitioners, on account of certain administrative reasons. However, it is brought to the notice of this Court that the permanent registration with the Medical Counsel of Tamil Nadu is a mandatory provision for the purpose of submitting application for recruitment to the post of Assistant Surgeon as well as for commencing the medical practice.

3.However, these questions are to be adjudicated at length by hearing the respective parties in these writ petitions. All

the writ petitioners were appointed long back during the pendency of the writ petitions and they are continuing in the post of Assistant Surgeon and some of the writ petitioners have been admitted for PG course and they are pursuing the education.

4.Considering the factual circumstances prevailing in these writ petitions, this Court is of the opinion that the appointments made long back need not be disturbed in view of the fact that the writ petitioners are continuing in the post and on account of the fact that there is a dearth of qualifying Doctors to be accommodated in various Government Hospitals including Primary Health Centres in Rural areas.

5.Considering these peculiar circumstances, the appointments made in favour of the writ petitioners long back may be allowed to continue and the respondents need not disturb their appointments. The respondents are at liberty to consider all the service benefits, in accordance with law in respect of the prescription of cut-off date and in respect of the permanent registration with the Medical Council of Tamil Nadu.

6.Accordingly, all these writ petitions stands disposed of. However, there is no order as to costs. Consequently, the connected Miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary,The State of Tamil Nadu
Health & Family Welfare Department,
Fort St. George, Chennai - 9.

2.The Director of Public Health and
Preventive Medicine,
Director of Medical Services Campus,
Chennai - 6.

3.The Member Secretary,
Medical Services Recruitment Board,
359, 7th Floor, DMS Buildings, Anna Salai,
Teynampet, Chennai - 6.

4.The Director of Medical Services,
No.359 DMS Compound, Anna Salai,
Chennai - 600 006.

5.The Registrar,
The Tamil Nadu Dr.MGR Medical University,
69, Anna Salai, Guindy,
Chennai - 600 032.

+6cc to Mr.L.Chandrakumar, Advocate Sr.No.89990
+1cc to Mr.N.A.Nissar Ahmed, Advocate Sr.no.89351
+1cc to Mr.R.N.Amarnath, Advocate Sr.No.90054

+13cc to Government Pleader SR.No.90626,90627,90628, 90635,
90634,90633,90632,90631,90630,90629,90577,
90576,90578

W.P.Nos.24730, 24731, 24113,
24114, 23816 to 23818, 23984,
24145, 24483, 24778 to 24783,
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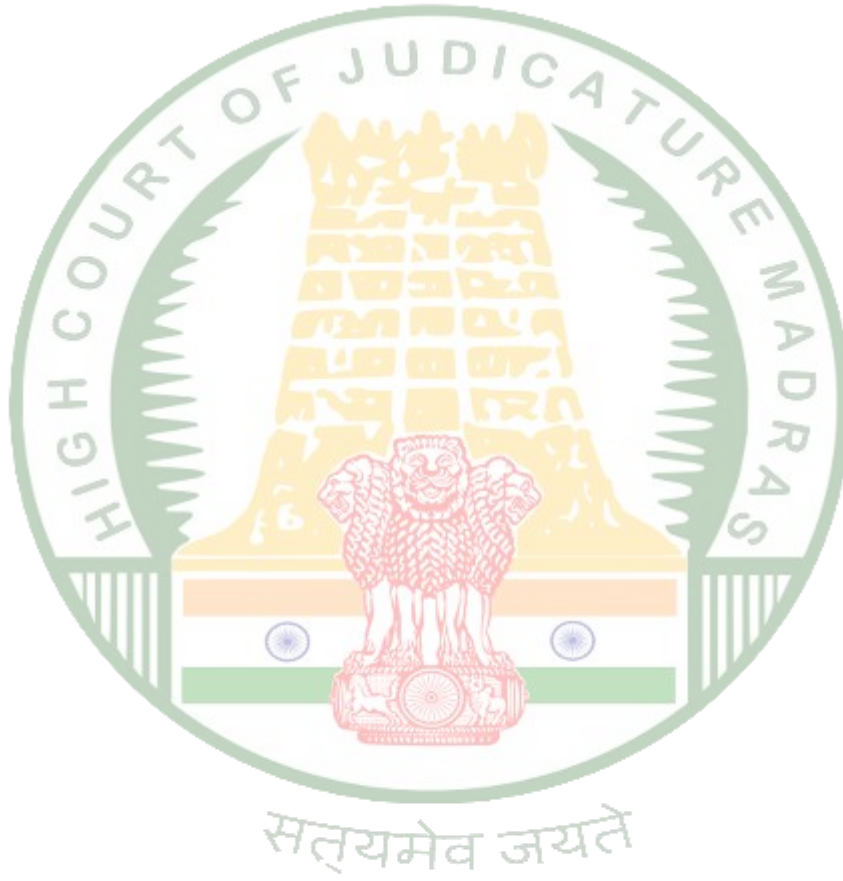
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