

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 2/11/2017

C O R A M

THE HONOURABLE Mr.JUSTICE S.MANIKUMAR

A N D

THE HONOURABLE Mr. JUSTICE N.AUTHINATHAN

Writ Petition Nos.7234, 7433, 7434, 7364, 10256 and 7800 of 2016
and
W.M.P.Nos.6432, 6639 to 6644, 23113, 23114, 23115, 23116 6572,
22554,
9077 to 9079 and 6966 to 6968 of 2016

W.P.No.7234 of 2016

S. Krubha Thomas ... Petitioner in W.P.No.
7234 of 2016

J. Periyarselvi ... Petitioner in W.P.No.
7433 of 2016

V. Ashtalakshmi ... Petitioner in W.P.No.
7434 of 2016

Dr.K .Selvakumar ... Petitioner in W.P.No.
7364 of 2016

Dr.S.Srinivas ... Petitioner in W.P.No.
10256 of 2016

T.Selvam ... Petitioner in W.P.No.
7800 of 2016

Vs

The Assistant Medical Officer/
Lecture Grade II
The Medical Services Recruitment Board
rep. By the Member Secretary
7th Floor, DMS Building
359 Anna Salai
Teynampet
Chennai 600 006.

... Respondent in W.P.Nos.
7234, 7433 and 7434, 7800
of 2016
* R-3 in W.P.No.7364 of 2016

R-2 in W.P.No.10256 of 2016

1. State of Tamil Nadu

rep. By Secretary to Government
Health & Family Welfare Department
Fort St. George
Chennai 9.

... First respondent in W.P.Nos.
7364 and 10256 of 2016

2. The Commissioner

Indian System of Medicine & Homeopathy
Arignar Anna Government Hospital
Arumbakkam
Chennai.

... Second respondent in W.P.No.
7364 of 2016

Prayer in W.P.No.7234 of 2016:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the respondent to conduct the selection process to the post of Assistant Medical Officer/Lecturer Grade - II (Yoga and Neuropathology) in a transparent manner in accordance with law by inviting all the candidates, who had applied based on the advertisement dated 7/2/2016.

Prayer in W.P.Nos.7433 and 7434 of 2016:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records pertaining to the selection process in Notification No.09/MRB/2016 dated 7/2/2016 issued by the respondent and quash the same and consequently direct the respondent to appoint the petitioner on the basis of professional and executive employment office seniority in the post of Assistant Medical Officer/Lecturer Grade - II (Yoga and Naturopathy).

Prayer in W.P.No.7364 of 2016:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records of the third respondent in Notification No.09/MRB/2016 dated 7/2/2016 issued for selection for the post of Assistant Medical Officer/Lecturer and quash the same as illegal and consequently direct the second respondent to adhere to the merit based selection method conforming to the mandatory requirements of the medical University either as prescribed by the third respondent or any other recruiting agency.

Prayer in W.P.No.10256 of 2016:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records pertaining to the selection process in Notification No.09/MRB/2016 dated 7/2/2016 issued by the second respondent,

quash the same and consequently direct the second respondent to appoint the petitioner on the basis of professional and executive employment office seniority in the post of Assistant Medical Officer/Lecturer Grade - II (Yoga and Naturopathy)

WP.No.7234/16:

For petitioners ... Ms.D.Geetha

WP.No.7433 & 7434/16:

For Petitioners ... Mr.D.Arun

WP.No.7364/16:

For Petitioner ...Mr.S.Shivashanmugam

WP No.10256/16

For Petitioner ...Ms.G.Sridevi

WP.No.7800/16

for petitioner ...Mr.R.Bharathkumar

For respondents

... Mr.A.Vivek
Standing Counsel
for Medical Recruitment Board
in all the WPs
Mr.K.V.Dhanapalan
Special Government Pleader
for the Secretary to Government
in all the WPs

C O M M O N O R D E R

(Order of the Court was made by S.Manikumar,J)

On this day, when the matter came up for further hearing, Mr.K.V.Dhanapalan, Special Government Pleader, filed an affidavit of the Principal Secretary to Government, Health and Family Welfare Department, Secretariat, Chennai, dated 2nd November 2017 and G.O.(Ms).No.264, Health and Family Welfare [IM-2(1)] Department, dated 27/7/2017.

2. Supporting additional affidavit, in W.P.No.7364 of 2016, reads as follows:-

" (i). Medical Services Recruitment Board issued a Notification for recruitment to fill up 20 temporary posts of Assistant Medical Officer / Lecturer Grade-II (Yoga and Naturopathy) on 07.02.2016 for which 453 applications have been received and Certificate Verification has been completed. In the meantime, this writ petition along with other cases were filed before this Hon'ble Court. The Hon'ble Court has ordered to maintain Status -Quo on the recruitment process.

(ii). As per G.O.Ms.No.321 Health and Family Welfare (IM2-1) Department, dated 27.10.2015, the post of Assistant Medical Officer (Siddha /Ayurveda / Unani / Homoeopathy) in Tamil Nadu Medical Services have been excluded from the purview of Tamil Nadu Public Service Commission and Medical Services Recruitment Board has been permitted to recruit the above posts. In G.O.Ms.No.264 Health and Family Welfare (IM-2(1)) Department, dated 27.07.2017, Government has excluded the post of Assistant Medical Officer (Yoga & Naturopathy) from the recruitment purview of the Tamil Nadu Public Service Commission and Medical Services Recruitment Board has been permitted to recruit the post of Assistant Medical Officer (Yoga & Naturopathy).

(iii). The Commissioner of Indian Medicine and Homoeopathy the second respondent herein has sent a proposal for approval of estimate of vacancies for the year 2017 (period covered from 01.01.2017 to 31.12.2017) to Government vide their letter No.15130/E1/2/2008 dated 02.09.2017. The above proposal of the second respondent is under examination in consultation with the advisory department in Secretariat. As soon as the orders issued by the Government for approval of the estimate of the vacancy for the year 2017 action will be initiated by third respondent herein to proceed with recruitment by Open Advertisement by conducting competitive examination for the post of Assistant Medical Officer (Yoga & Naturopathy) in lines with the Assistant

Medical Officer
(Siddha/Ayurveda/Unani/Homoeopathy). As such
the need to fill up the said post of
Assistant Medical Officer (Yoga and
Naturopathy) is very essential."

3. G.O.Ms.No..264, Health and Family Welfare [IM-2(1)]
Department, dated 27/7/2017, reads as follows:-

"1. G.O.(Ms) No.1, Health and Family
Welfare (C2) Department, dated 2/1/2012.

2. G.O.(Ms) No.214, Health and Family
Welfare (B1) Department, dated 22/7/2014

3. G.O.(Ms) No.23, Health and Family
Welfare (IM2-1) Department dated 28/1/2015

4. G.O.(Ms) No.129, Health and Family
Welfare (IM2-1) Department, dated 27/4/2015

5. In the G.O.(Ms) No.321, H & FW (IM2-1)
Department, dated 27/10/2015

6. From the Additional Chief Secretary
Commissioner of Indian Medicine and Homeopathy,
Letter Ref.No.13946/E1/2/2014 dated 16/2/2015

7. From the Secretary, Tamil Nadu Public
Service Commission, Letter No.1797/RND-B2/2016
dated 19/6/2017.

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O R D E R

"In the Government Order first read above,
among others orders have been issued that all
direct recruitments under the control of the
Directorates of Health and Family Welfare
Department, made through Employment Exchange
henceforth will be under the purview of the
Medical Services Recruitment Board.

2. In the Government Order second read
above, orders have been issued permitting the
Medical Services Recruitment Board to recruit
for the posts of Assistant Surgeon and Assistant
Surgeon (Dental) which were under the purview of
Tamil Nadu Public Service Commission for regular
appointment in Tamil Nadu Medical Services.

3. In the G.O third and fourth read above
Adhoc Rule for the post of Assistant Medical
Officer (Yoga and Neuropathology) was issued.

4. In the G.O fifth read above, the
Government have permitted the Medical Service
Recruitment Board to recruit the Assistant

Medical officer (Siddha/Ayurveda/Homeopathy and Unani) which were earlier under the purview of the Tamil Nadu Public Service Commission for regular appointment in Tamil Nadu Medical Services.

5. In the letter sixth read above, the Additional Chief Secretary/Commissioner of Indian Medicine and Homeopathy has requested the Government to exclude the post of Assistant Medical officer (Yoga and Neuropathology) from the recruitment purview of Commission and to bring it under the purview of Medical Services Recruitment Board, consequent on the issuance of adhoc rules for the post of Assistant Medical Officer (Yoga and Neuropathology).

6. In the letter seventh read above, the Tamil Nadu Public Service Commission has concurred for excluding the post of Assistant Medical Officer (Yoga/Naturopathy) in the Tamil Nadu Medical Service from the recruitment purview of the Tamil Nadu Public Service Commission.

7. The Government after careful examination accept the concurrence of the Tamil Nadu Public Service Commission and to exclude the post of Assistant Medical Officer (Yoga and Neuropathology) in the Tamil Nadu Medical Service from the recruitment purview of the Tamil Nadu Public Service Commission and permit the Medical Services Recruitment Board to recruit Assistant Medical Officer (Yoga and Naturopathy) for appointment in the Tamil Nadu Medical Services.

8. This order issues with the concurrence of Personnel and Administrative Department vide its U.O.No.1844/C1/2016, dated 21/1/2016."

4. Based on the supporting affidavit of the Principal Secretary to Government, Health and Family Welfare Department, Secretariat, Chennai, dated 2nd November 2017 and G.O.(Ms). No.264, Health and Family Welfare [IM-2(1)] Department, dated 27/7/2017, Mr.K.V.Dhanapalan, learned Special Government Pleader submitted that selection process initiated based on the impugned Notification, No.09/MRB/2016, dated 7/2/2016, is not continued.

5. After the issuance of G.O.Ms.No.264, Health and Family Welfare [IM-2(1)] Department, dated 27/7/2017, fresh recruitment process would be taken up for the post of Assistant Medical Officer (Yoga and Naturopathy) and that therefore, prayed that the above writ petitions be closed.

6. Though Mr.S.S.Siva Shanmugam, learned counsel for the petitioner in W.P.No.7364 of 2016, submitted that directions be given to the Medical Recruitment Board, to consider selection of Post Graduates, to the post of Assistant Medical officers (Yoga & Neuropathology), such directions cannot be given.

7. Placing on record the subsequent developments, all the writ petitions are closed. Interim order already granted stands vacated. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

mvs

To

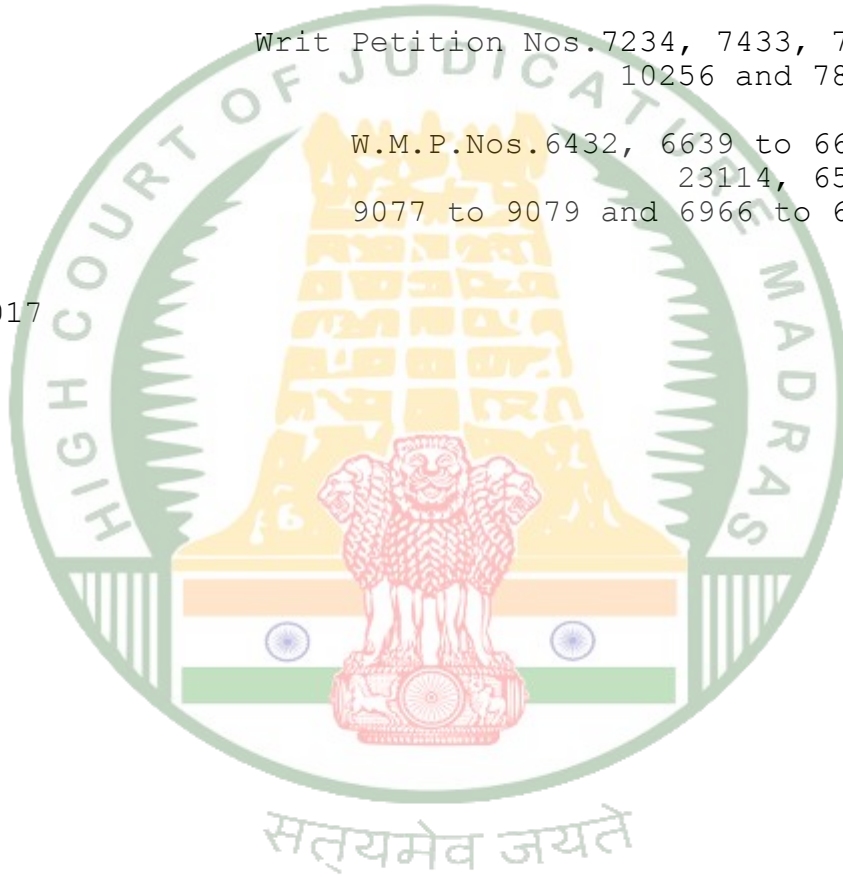
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+1 cc ot M/s.R.Bharath Kumar Advocate sr 78109

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