

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2017

CORAM

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

W.P.No.8018 of 2016
and
WMP.Nos.7124 & 7147 of 2016

1.M.Elaiyaraja
2.M.Shanmugadoss

...Petitioners

Vs

1. The Director of Medical Education,
Office of the Director of Medical Education,
Chennai-600 010.
2. The Director of Medical and Rural Health Services,
Office of the Director of Medical and Rural
Health Services,
Chennai-600 006.
3. The Director of Employment and Training,
Office of the Director of Employment
and Training,
Guindy, Chennai-600 032.
4. Medical Services Recruitment Board,
Rep. By its Member Secretary,
7th Floor, DMS Buildings, 359, Anna Salai,
Teynampet, Chennai-600 006.
5. The District Employment Officer,
District Employment Exchange Office,
Villupuram District, Villupuram.
6. The District Employment Officer,
District Employment Exchange Office,
Virudhunagar District, Virudhunagar.

... Respondents

PRAYER: Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for records of the 4th respondent in notification No.02/MRB/2016 dated 20.02.2016 and quash the same and direct the respondents to consider the petitioners for the post of E.E.G/E.M.G Technician as per seniority list maintained by the 3rd respondent.

For Petitioners : Mr.A.P.Surya Prakasam
For Respondents : Mr.K.Dhananjayan
Special Government Pleader
(For R1 to R3, R5, R6)
Mr.A.Vivek (For R4)

O R D E R

Challenging the order passed in No.02/MRB/2016 dated 20th February, 2016 by the 4th respondent, for recruitment to the post of ECG/EMG Technicians.

2. The learned counsel appearing on behalf of the petitioners made a submission that the 4th respondent had issued a notification in No.02/MRB/2016 dated 20.02.2016, for recruitment to the post of EEG/EMG Technicians. In this regard, the writ petitioners have filed this writ petition for quashing of the notification and for direction to consider the petitioners for appointment to the post of ECG/EMG Technicians as per the seniority list being maintained by the 3rd respondent /Statewide Employment Exchange.

3.The learned counsel appearing on behalf of the respondents made a submission that the 3rd and 5th respondents have jointly filed a counter statement, wherein the relevant paragraphs are extracted hereunder:

"3. I have read the affidavit filed by the petitioner and I deny all the averments except those that are specifically admitted hereunder.

It is submitted that the Petitioner registered his Qualification in the office of the 5th respondent, Assistant Director, District Employment Office, Villupuram, as follows:

Name: M.ELAIYARAJA
Registration Number: VPD1998M00020470
Date of Birth: 15.05.1980
Community & Category: MBC-NON PRIORITY
Qualification Registered with Seniority: 086.21 SF 15.12.1998

Address

M.Elaiyaraja
S/o.Munusamy,
Achipakkam PO
Tindivanam TK

Viluppuram Dist.

Name:

M.SHANMUGADOSS

Registration Number:

VRD1996M00009985

Date of Birth:

06.04.1975

Community & Category:

SC-ICM Priority-25.09.2012

Qualification Registered

HSC SF 30.05.1994

With Seniority

Dip.In Med/Para Med.Lab.Tech

SF

09.12.1996

Dip. In Med/Para Med.ECG.Tech SF

07.12.1998

Dip.In Med/Para Med.EEG.Tech SF

07.12.1998

It is submitted that the 4th respondent has notified vacancies of ECG Technician to the 3rd Respondent. The 3rd respondent circulated the vacancies to all the Employment Exchanges in Tamilnadu in jorder to draw a State wide cut-off seniority list. After arriving the cut-off seniority, as the petitioners were well within the cut-off date they were nominated under MBC Non-Priority and SC General Priority respectively.

It is submitted that the petitioner's prayers are against the 4th respondent. The 3rd respondent's role ends with only nomination of candidates. The selection and appointments are the prerogative of the employer."

4.The 4th respondent /Medical Services Recruitment Board also filed its counter statement, wherein the relevant portions are extracted hereunder:

"The following details are submitted as ordered by the Hon'ble Court:

Petitioner No:1 Thiru.M.Elaiyaraja

The first petitioner Thiru.M.Elaiyaraja, belongs to MBC & DNC category. He has scored 28.81 marks out of 50. The last selected candidate under MBC & DNC cagtegrory has secured the weightage mark of 37.86 out of 50.

Petitioner No:2 Thiru.Shanmugadoss

The another petitioner Thiru.Shanmugadoss belongs to SC (General) category. He has scored 25.87 marks out of 50. While following the communal rotation, there was no turn for SC (General). Even though it is not relevant

to the above candidate it is submitted that out of the 12 candidates selected, two candidates belonging to SC-Women (Destitute Widow) and SC(Physically Handicapped) have scored weightage marks of 26.49 and 26.10 respectively.

11. In G.O.(Ms)No.36, Health and Family Welfare (C2) Department dated:12.02.2014 it is read as follows:

"In respect of open advertisements, the Medical Services Recruitment Board shall keep not more than ten percent of the estimated vacancies in the reserve list. The reserve list shall lapse after the expiry of one year from the date of declaration of selection list or till the date of notification of next recruitment whichever is earlier."

As the petitioners did not come under the selection zone, they were not called for certificate verification.

4.In this view of the above facts stated in the counter statements, the writ petitioners have not come within the zone of consideration for recruitment to the post EEG/EMG Technicians. Thus, no further consideration is required on the grounds raised in this writ petition.

5.Accordingly, the writ petition stands dismissed. However, there is no order as to costs. Consequently, connected Miscellaneous Petitions are also dismissed.

-s/d-

Assistant Registrar(CS-IV)

True Copy

सत्यमेव जयते
Sub-Assistant Registrar

tkp/maya

To

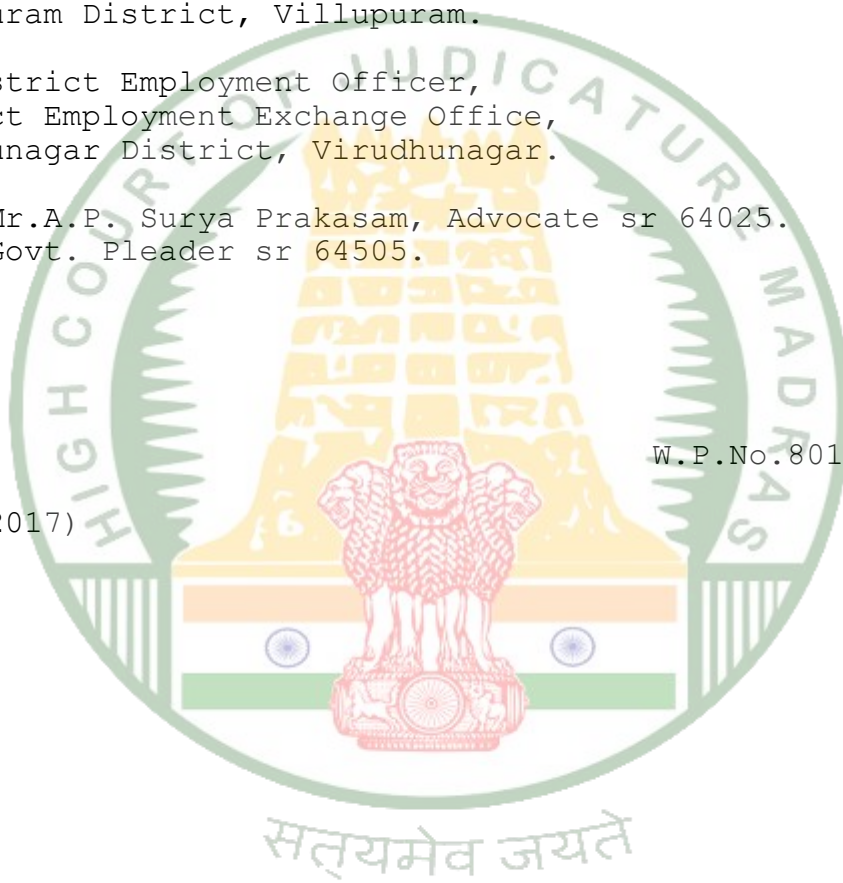
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6. The District Employment Officer,
District Employment Exchange Office,
Virudhunagar District, Virudhunagar.

+1 Cc to Mr.A.P. Surya Prakasam, Advocate sr 64025.
+1 Cc to Govt. Pleader sr 64505.

W.P.No.8018 of 2016

SP(09/10/2017)



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