



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A. [MD] .No.1576 of 2016

and

M.P. [MD] No.11634 of 2016

1. The Medical Services Recruitment Board,
Represented by its Member Secretary,
7th Floor, DMS Building,
359, Anna Salai, Teynampet,
Chennai-600 006.
2. The Director of Employment and Training,
Guindy, Chennai-600 032. : Appellants/Respondents

Vs.

S.Yassin Mohammed

: Respondent/Petitioner

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent to against the order passed by this Court in W.P(MD)No.855 of 2014 dated 02.09.2016.

Prayer in WP(MD). 855/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the 1st 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 31.01.2014 thereby consider his case for appointment to the post of Pharmacist within the time limit that may be stipulated by this Honourable Court.

For Appellant

: Mr.T.S.Mohamed Mohidheen
Standing Counsel

For Respondent

: Mr.G.Thalai Mutharasu

JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mr.T.S.Mohamed Mohidheen, learned counsel appearing for the appellants and Mr.G.Thalai Mutharasu, learned counsel appearing for the respondent.



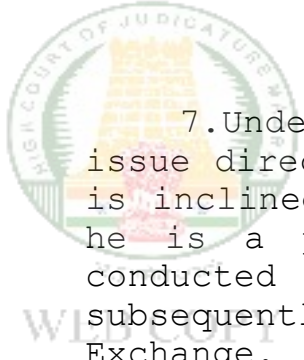
2. By consent, the Writ Appeal is taken up for final disposal.

3. This Writ Appeal has been filed by the Medical Services Recruitment Board and another challenging the order passed in W.P (MD) No. 855 of 2014 dated 02.09.2016.

4. The said writ petition was filed by the respondent herein, to include his name in the list of candidates published along with notification issued vide 09.01.2014 for Certificate Verification to be held from 20.01.2014 to 30.01.2014 and consider the case of the respondent/writ petitioner for appointment to the post of Pharmacist.

5. The respondent/writ petitioner is a physically challenged person with 60% disability and after completing his Diploma in Pharmacy, he registered his name in the Employment Exchange in the year 2001. The problem arose on account of certain intervening circumstances in the selection process. In the first selection process was conducted for the said post in the year 2012. Though the respondent/writ petitioner's name was sponsored, his turn did not come up for selection as there were persons, who had registered earlier than him in the Employment Exchange. In the second selection conducted in the year 2013, the respondent/writ petitioner's name was sponsored and he was short listed for being selected to the post of Pharmacist. However, the selection process was to be challenged before the Principal Bench of this Court and entire selection was set aside. The natural consequences that should have followed is the respondent/writ petitioner's name was included in the selection viz, in the year 2014. But, however in the interregnum, the Government introduced other categories for reservation, namely BC (Muslim) and BC (Muslim-Women) and the respondent/writ petitioner was not sponsored by the Employment Exchange and consequently, the first appellant proceeded with the recruitment process. At that stage, the respondent filed the writ petition and interim order was granted on 12.12.2016 to keep one post vacant in the selection, which was conducted in the year 2014. This post continuously remained vacant.

6. The learned Single Judge heard the matter and allowed the writ petition noting that the entire colors of reservation had undergone a change by introducing some priority categories like Destitute Widows, candidates belong to inter caste marriage, Land Losers category, Ex-Serviceman category, etc., Thus, taking note of the facts and circumstances and more particularly that the respondent/writ petitioner was physically challenged person suffering from 60 % disability, the Court directed to accommodate the respondent/writ petitioner in one vacant post, which was reserved.



7. Under normal circumstances, the Court would not incline to issue directions to accommodate such a candidate. But, this Court is inclined to entertain the respondent's plea on the ground that he is a physically challenged candidate and in the selection conducted in the year 2013, his name was short listed and subsequently, his name was not sponsored by the Employment Exchange. Thus, in the peculiar facts and circumstances of the case, we are not inclined to interfere with the direction issued by the learned Single Judge.

8. We made it clear that this Judgment shall not be treated as precedent since only with regard to the said recruitment and taking note of the special circumstances in which the respondent/writ petitioner was pushed to, the Judgment is passed.

9. In the light of the above conclusions, we direct the appellants to consider and appoint the respondent/writ petitioner in the post of Pharmacist in the vacancy, which has been reserved, pursuant to the interim orders, passed in the said petition. The appellants should comply with this order within a period of eight weeks from the date of receipt of a copy of this Judgment.

10. With the above observations, this Writ Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Medical Services Recruitment Board,
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2. The Director of Employment and Training,
Guindy, Chennai-600 032.

+1cc to Mr.G.Thalai Mutharasu, Advocate Sr.No.62123
+1cc to Mr.T.S.Mohamed Mohidheen, Advocate Sr.No.62255
+1cc to The Spl.Government pleader Sr.No.62713
MYR/GNS
VB/KP/SAR1/05/07/2017/3P/6C

JUDGMENT MADE IN
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