



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.09.2017

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.(MD)Nos.17309 and 17310 of 2017

and

W.M.P.(MD)Nos.13850 and 13851 of 2017

M.Balasubramanian : Petitioner in W.P.(MD)No.17309 of 2017
]
P.V.Senthil Kumar : Petitioner in W.P.(MD)No.17310 of 2017

Vs.

1.The State of Tamil Nadu represented by
The Principal Secretary,
Health Department, Secretariat,
Fort St.George, Chennai-600 009.

2.The Chairman,
Medical Services Recruitment Board, Chennai.

3.The Director Medical Education,
Directorate of Medical Education,
State of Tamil Nadu,
162, EVR Periyar Salai,
Keelpakkam, Chennai.

4.The Director of Medical and Rural Health Services,
Directorate of Rural and Health Services,
State of Tamil Nadu,
258, Second Floor, DMS Complex,
Anna Salai, Thenampettai, Chennai.

: Respondents in both writ petitions

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Declaration, declaring the G.O.Ms.No.401 dated 16.12.2014 issued by the first respondent as ultra virus to Article 21 and 14 of the Constitution of India and also against the object of the courses offered by the Government.

For Petitioners : Mr.S.Malaikani

For Respondents 2 to 4: Mr.T.S.Mohammed Mohideen



For Respondent No.1 : Mr.D.Muruganantham

Additional Government Pleader

(In W.P. (MD) No.17309 of 2017)

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For Respondent No.1 : Mr.K.Guru

Additional Government Pleader

(In W.P. (MD) No.17310 of 2017)

O R D E R

By the consent of both sides, these writ petitions themselves are taken for final disposal.

2.These writ petitions have been filed seeking Writs of Declaration, declaring the impugned G.O.Ms.No.401 dated 16.12.2014, issued by the first respondent as ultra virus to Article 21 and 14 of the Constitution of India.

3.The learned counsel for the petitioners would submit that after completion of B.Sc. Degree in Zoology, the petitioners have also completed Certificate Course in Anesthesia Technician in the year 2005. In spite of acquiring the aforementioned qualification, till date they have not been able to see any ray of hope to get employment. In the meanwhile, when the petitioners were struggling for employment with the above mentioned certificate which are indicating the requisite qualification for the post of Anesthesia Technician, the Government had issued the impugned G.O.Ms.No.401 dated 16.12.2014, stating that the process of selection shall be based on the marks obtained by the candidates by giving weightage to their academic performances.

4.Arguing further, it is stated that the above approach is wholly unjustified. If this method is followed selecting the Anesthesia Technician based on the marks as specified in the paragraph No.3 of G.O.Ms.No.401 dated 16.12.2014, it would cause huge prejudice to the petitioners and others.

5.This Court finds no justification or merits in the aforementioned contentions for the following three reasons:-

5.1.Firstly, when G.O.Ms.No.401 dated 16.12.2014 was issued three years ago on 16.12.2014, it is stated that the process of selection would be made by giving weightage to academic performances as detailed below:-

Minimum Educational Qualification required for the post	Weightage of marks		
	Degree / Diploma / Certificate	HSC / P.U.C	SSLC / 10 th
a. Degree	50%	30%	20%
b. Diploma	50%	30%	20%
c. Certificate with PUC/HSC qualification	50%	30%	20%
d. Certificate with SSLC	60%	NA	40%
e. Minimum General Educational Qualification (SSLC Pass)	NA	NA	100%

Therefore, I do not find that any prejudice would be caused to the petitioners as they are also going to be treated on par with all other candidates.

5.2.Secondly, paragraph No.2 of G.O.Ms.No.401 dated 16.12.2014, states that based on a direction issued by this Court in W.A.No.1027 of 2013 and M.P.No. 1 of 2013, the Chairman, Medical Services Recruitment Board (MRB) has sent amendment proposal to the Rule of Procedure to be followed for recruitment. Therefore, when the Government has issued the G.O.Ms.No.401 dated 16.12.2014, following the judgment of this Court, this Court will not be in a position to interfere with the said Government Order.

5.3.Thirdly, the petitioners by keeping quiet from 2014 have allowed the implementation of G.O.Ms.No.401 dated 16.12.2014 for the last three years and the similarly placed persons would have been selected based on the application of the said Government Order. Therefore, the petitioners having approached this Court belatedly when the said Government Order has already been implemented, they are held guilty of lapses.

6.The writ petitions stand dismissed accordingly. No Costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (ADII)

/True Copy/

Sub-Assistant Registrar



To
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- 1.The Principal Secretary,
State of Tamil Nadu,
Health Department, Secretariat,
Fort St.George, Chennai-600 009.
- 2.The Chairman,
Medical Services Recruitment Board, Chennai.
- 3.The Director Medical Education,
Directorate of Medical Education,
State of Tamil Nadu,
162, EVR Periyar Salai,
Keelpakkam, Chennai.
- 4.The Director of Medical and Rural Health Services,
Directorate of Rural and Health Services,
State of Tamil Nadu,
258, Second Floor, DMS Complex,
Anna Salai, Thenampettai, Chennai.

+One cc to The Special Government Pleader, SR.No.79014

+One cc to Mr.T.S.Mohamed Mohideen, Advocate, SR.No.79212

+2ccs to Mr.S.Malaikani, Advocate, SR.Nos.78740 and 78739

Mrn/MR

RL/9C/4P/MR/KKR/SAR4/6/11/2017

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