



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.04.2017

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) .Nos.6809 & 6810 of 2017 and
W.M.P. (MD) Nos.5371 & 5372 of 2017

J.Muthuvel Kumar ..Petitioner in W.P.(MD)No.6809 of 2017

D.Jeya Ramakrishnan ..Petitioner in W.P.(MD)No.6810 of 2017

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat, Fort St.George,
Chennai - 600 009.
2. The Chairman,
Medical Services Recruitment Board,
DMS Campus, Anna Salai,
Teynampet, Chennai - 600 006.
3. The Member Secretary,
Medical Services Recruitment Board,
DMS Campus, Anna Salai,
Teynampet, Chennai - 600 006.
4. The Director of Medical and Rural Health Services,
Office of the Director of Medical and Rural Health Services,
DMS Campus, Anna Salai,
Teynampet, Chennai - 600 006. .. Respondents (In both cases)

COMMON PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 3 to make necessary relaxations for the educational qualifications as that of the eligibility criteria as required by the Tamil Nadu Medical Services Corporation Limited, towards recruitment for the post of Dark Room Assistants, in the Government Hospitals, thereby considering the representation of the petitioners, dated 06.04.2017, within a time frame as may be fixed by this Court.

(In all W.Ps)



For R-1 to R-3

: Mr.T.S.Mohamed Mohideen,
Additional Government Pleader.

COMMON O R D E R

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These Writ petitions have been filed for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to make necessary relaxations for the educational qualifications as that of the eligibility criteria as required by the Tamil Nadu Medical Services Corporation Limited, towards recruitment for the post of Dark Room Assistants, in the Government Hospitals, thereby considering the representation of the petitioners, dated 06.04.2017, within a time frame as may be fixed by this Court.

2. Heard the learned counsel appearing for the petitioners and the learned Additional Government Pleader appearing for the respondents 1 to 3.

3. *The brief facts that are relevant for the disposal of the present Writ petitions are as follows:-*

The petitioners have completed their Graduation and obtained degree in B.Sc., Chemistry, in April 2010 and November 2009 respectively. The petitioners also underwent training in Thoothukudi Government Medical College and obtained a certificate of Radiological Assistant in November 2010 and November 2009 respectively. With the certificate of Radiological Assistant, the petitioners claim that they are eligible for the post of Radiographers as well as Dark Room Assistants at Government hospitals.

4. Recently, the first respondent herein issued a recruitment Notification, dated 31.01.2016, to fill up 234 vacancies of Dark Room Assistants in Government hospitals. As per the said Notification, the educational qualification for the post of Dark Room Assistant are as follows:-

" i) A pass in Higher Secondary Course with Science Subjects.

a) Physics, Chemistry, Botany and Zoology
(or)

b) Physics, Chemistry, Biology and anyone of the related subjects (viz) Mathematics or Computer Science.

ii) Certificate for having successfully completed the training course for Dark Room Assistant of any institution recognised by the State Government.

<https://hcservices.ecourts.gov.in/hcservices> provided that if candidates with Certificate of Dark Room Assistant are not available, then candidates with Certificate of



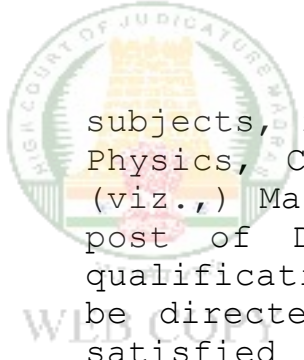
Radiological Assistant of any institution recognised by the State Government."

5. The petitioners applied for the post by filing applications along with their certificates. The petitioners have completed +2 with subjects Physics, Chemistry, Maths and Computer Science. In the provisional selection list-1, dated 30.03.2017, the petitioners' name were not found. Having regard to the specific qualification prescribed in the recruitment Notification, the petitioners are not eligible. Hence, the petitioners have made a representation, dated 06.04.2017, for granting relaxation by taking into consideration the previous recruitment to the post of radiographer by relaxing the eligible criteria that is fixed for direct recruitment to the said post. By proceedings dated 09.09.2016, the petitioners and other candidates who have applied for the post of Dark Room Assistant were asked to attend the written test. Even in this communication, the respondents have clarified that the petitioners are required to possess the certificate of Radiological Assistant course, issued by the Director of Medical Education, Chennai.

6. The learned counsel for the respondents 1 to 3 produced Government Order vide G.O.Ms.No.304 Health and Family Welfare(C2) Department, dated 07.10.2015, whereby an amendment was introduced to the Special Rules for Tamil Nadu Medical Subordinate Service (Section 21 in Volume III of the Tamil Nadu Services Manual, 1970). By these amendment certificates for having successfully completed the training course of Dark Room Assistant of any institution recognized by the State Government or Central Government has been made essential. However, the candidates with the certificates of Radiological Assistant of any recognised institution will also be considered if candidates with the certificates of Dark Room Assistant are not available. By that amendment, the educational qualification was also amended and a pass in Higher Secondary course with Science subjects is the required qualification. It is stated in the Government Order that the amendment is in tune with the qualification prescribed for the post of Radiographer by the Atomic Energy Regulatory Board, Mumbai.

7. Based on the representation of the petitioners to relax the recruitment rules, the learned counsel for the petitioners submits that the petitioners' request for relaxation can be considered by the respondents so that their names will be considered for selection.

8. Having regard to the contents of the Government Order vide G.O.Ms.No.304 Health and Family Welfare(C2) Department, dated 07.10.2015, and other provisions of the Special rules for Tamil Nadu Medical Subordinate Service Rules, 1970, this court is convinced that a pass in Higher Secondary course with Science



subjects, namely, a) Physics, Chemistry, Botany and Zoology or b) Physics, Chemistry, Biology and any one of the related subjects (viz.,) Maths or Computer Science is essentially required for the post of Dark Room Assistant and hence, the said educational qualification cannot be dispensed with and the respondents cannot be directed to relax the recruitment rules. This Court is also satisfied that the amendment of the rules by G.O.Ms.No.304 Health and Family Welfare(C2) Department, dated 07.10.2015, is in tune with the qualification prescribed by Atomic Energy Regulatory Board, Mumbai, for the post of Radiographer.

9. In such circumstances, this Court cannot direct either relaxation or issue direction to the respondents to consider the representation of the petitioners. It has been repeatedly held by the Hon'ble Supreme Court and this Court in number of cases, that the prescription of the eligibility criteria is within the exclusive domain of the recruitment agency or the employer. The judicial review in these cases is limited to circumstances wherein the eligibility criteria has been prescribed in a capricious manner. In the above circumstances, this Court find no merits in the Writ petitions. Hence, the Writ petitions are dismissed. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar(P & A)

/True Copy/

Sub Assistant Registrar

To

- 1.The Principal Secretary to Government of Tamil Nadu,,
Health and Family Welfare Department,
Secretariat, Fort St.George, Chennai - 600 009.
2. The Chairman, Medical Services Recruitment Board,
DMS Campus, Anna Salai, Teynampet, Chennai - 600 006.
3. The Member Secretary, Medical Services Recruitment Board,
DMS Campus, Anna Salai, Teynampet, Chennai - 600 006.
4. The Director of Medical and Rural Health Services,
Office of the Director of Medical and Rural Health Services,
DMS Campus, Anna Salai,
Teynampet, Chennai - 600 006.

+2cc to M/s.T.S.MOHAMED MOHIDEEN Advocate in SR. No.51961,51962

+ 2 ccs to Mr.G.ARAVINTHAN , Advocate in SR No. 52125

PMU

JS/KP/12.6.2017/4P-9C

COMMON ORDER MADE IN
W.P.(MD).Nos.6809 & 6810 of 2017 and
W.M.P.(MD)Nos.5371 & 5372 of 2017
13.04.2017