

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE SATRUGHANA PUJAHARI

W.P.No.7074 of 2018

WMP Nos.11319 to 11322 & 8768 & 8769 of 2018

1.S.Dhinesh Kumar
2.R.Ganesan
3.S.Alim Imran
4.M.Palani
5.V.Priyanka
6.S.K.Jonu Priya
7.J.Dhanalakshmi
8.A.Nilobar Jahan
9.S.U.Sughavanesh
10.R.Shanmathi
11.M.Ramya
12.T.Ranjana
13.V.Kavitha
14.M.Samidurai
15.P.Shanmuga Priya
16.M.Deepa
17.T.Rajeshwari

.. Petitioners

Vs

1.The Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Chennai-600 009.

2.The Director of Medical Education,
Kilpauk,
Chennai-600 010.

3.The Secretary,
Medical Services Recruitment Board,
7th Floor, D.M.S. Building,
No.359, Anna Salai,
Chennai-600 006.

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the respondents to permit the petitioners to apply for

the post of Radiographer pursuant to the notification in Notification No.09/MRB/2017 dated 22.08.2017, in view of the order passed by this Hon'ble Court in W.P.No.4761 of 2018 dated 15.03.2018 and also the order passed in W.P. No.6472 of 2018 dated 21.03.2018.

For Petitioner : Mr.R.Jayaprakash

For RR1 & 2 : Mr.V.Kadhirvelu, Spl G.P.

For R3 : Mr.A.Vivek, Standing Counsel

ORDER

This writ petition has been filed by the petitioner seeking for a writ of mandamus to direct the respondents to permit the petitioners to apply for the post of Radiographer pursuant to the notification in Notification No.09/MRB/2017 dated 22.08.2017, in view of the orders passed by this Hon'ble Court in W.P.Nos.4761 & 6472 of 2018 dated 15.03.2018 & 21.03.2018 respectively.

2. Heard the submissions of learned counsel appearing for the petitioners and also the learned counsel appearing for the respondents, and on consent of the parties the writ petition is taken up for final disposal by the following order.

3. As it appears in this case, the petitioners have challenged the non acceptance of their applications for the post of Radiographer, pursuant to the advertisement dated 22.08.2017 vide in Notification No.09/MRB/2017, by the third respondent Board prescribing the qualification.

4. As it appears that the third respondent came out with an advertisement vide Notification No.09/MRB/2017 dated 22.08.2017, to fill up certain number of posts of Radiographer prescribing the qualification of Diploma in Radio Diagnosis Technology. The petitioners having higher qualification than the qualification prescribed, inasmuch as they were having degree in Radiography, applied for the same but their candidature was not accepted, therefore, the petitioners have filed the present writ petition challenging non acceptance of their candidature for the aforesaid post and seeking for a direction to accept their candidature. But, later on a prayer for amendment has been made to quash such notification.

5. The learned counsel for the petitioners submits that since they have higher qualification than the qualification prescribed, they could not have been deprived of in participating the recruitment, pursuant to the advertisement made. More so, in view of the direction of this Court in W.P.Nos.4761 & 6472 of 2018 dated 15.03.2018 & 21.03.2018 respectively, the learned counsel submits to quash the notification and to direct the third respondent Board to make a fresh advertisement including the petitioners and others indicating that the persons who are having higher qualification are also eligible to apply for the said posts.

6. The learned Standing Counsel appearing for the third respondent however, submits that the recruitment process was concluded and the persons have already been appointed in the said posts.

7. As it appears that the petitioners have not made any grievance during the period of their applications were not accepted. They have also not come to this Court immediately to interfere with the process of recruitment on the aforesaid ground. No doubt in the similar circumstances, this Court in a number of writ petitions has granted a relief to many of the candidates including in the aforesaid writ petitions. But that relates to different process of recruitment in the different posts, not relatable to recruitment in the present case. The process of recruitment has already been over and the persons have already been appointed in the said posts. In such premises, this Court is of the view that it is not appropriate that the petitioners are guilty of delay in latches and as such no relief can be granted to them in this writ petition. Particularly, when the same is relates to the process of recruitment, the petitioners ought not to made any grievance in this appropriate stage and the persons selected have already been appointed. Hence, this writ petition stands dismissed on the aforesaid ground. More so, nothing is required to be adjudicated in this writ petition, by the time the writ petition was filed.

8. However, it is submitted by the learned counsel for the petitioners that a direction may be given to the third respondent to accept such applications of the persons having higher qualification in respect of advertisement made to fill up the posts of Radiographer in future. But such a presumptive order cannot be passed in exercise of writ jurisdiction in the present case.

9. With the aforesaid order, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar (CS IX)

/true copy/

Sub Asst. Registrar

To

1.The Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Chennai-600 009.

2.The Director of Medical Education,
Kilpauk,
Chennai-600 010.

3.The Secretary,
Medical Services Recruitment Board,
7th Floor, D.M.S. Building,
No.359, Anna Salai,
Chennai-600 006.

+ 1 cc to Mr.R.Jayaprakash Advocate,SR.28815
+ 1 cc to The Govt.Pleader, SR.29193

सत्यमेव जयते

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