

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 30.10.2018
CORAM
THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.13846 of 2013
M.P. Nos. 1 and 2 of 2013

1.V.Madhanagopal
2.K.Shanthipriya
3.R.Jeyachandran

...Petitioners

Vs

- 1.The Principal Secretary to Government,
Department of Health and Family Welfare,
Secretariat, Fort St George,
Chennai - 600 009.
- 2.The Chairman,
Medical Service Recruitment Board,
7th Floor, DMS Building,
359, Annasalai, Teynampet,
Chennai - 600 006.
- 3.The Dean,
Rajiv Gandhi Government General Hospital,
EVR Periyar Road,
Chennai - 600 003.
- 4.Tmt.K.Sumathy,
Department of Cardio Thoracic Surgery,
Rajiv Gandhi Government General Hospital,
EVR Periyar Road,
Chennai - 600 003.
5. Tmt.S.Suseela,
Department of Cardio Thoracic Surgery,
Rajiv Gandhi Government General Hospital,
EVR Periyar Road,
Chennai - 600 003.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order of the 3rd respondent dated 25.09.2012 in Ref.No.24845/E1(2)/2008 and quash the same and direct the 2nd respondent to recruit the

petitioner's as Cardiac Pump Technicians following G.O.(Ms) No.1, Health and Family Welfare (C2) Department dated 02.01.2012.

For Petitioner : Mr.G.J.Baskarnaryanan
For Respondents : M/s.S.T.Jayanthi

Special Government Pleader for R1- R3
No appearance for R4 & 5.

O R D E R

The relief sought for in the present writ petition is to appoint the petitioner's in the available vacancy as Heart Lung Hypothermia Machine Technician in Government Hospitals through Medical Services Recruitment Board in view of G.O.(MS) No. 1, Health and Family Welfare (C2) Department, dated 02.01.2012.

2.The Learned Counsel appeared on behalf of the writ petitioners states that all the writ petitioners are fully qualified and eligible for appointment to the post of Cardiac Pump Technician. The petitioner's have Completed Cardiac Pump Technician as a Para Medical certificate course (one year course) in the year November 2009 and undergone internship training at Government Stanley Medical College from 01.12.2009 to 02.03.2010. Soon after the completion of intern course, the writ petitioners have registered their name in the District Employment Office and awaiting for an interview letter from the competent authorities.

3. The Learned Counsel for the writ petitioner states that the respondents are not following the procedures contemplated in G.O.(MS) No.1 dated 02.01.2012 for appointment to the post of Cardiac Pump Technician. The Paramedical courses are introduced for the purpose of providing employment to the persons who were undergone the course. The learned counsel is of an opinion that such paramedical courses are opted by the persons with a fond hope that they will be appointed in the medical department. Thus, the respondents must provide an opportunities to all the petitioners to get appointment in the Medical Department.

4.This Court is of an opinion that appointment can never be claimed as a legal right. All appointments are to be made under Constitutional schemes and by following the procedures contemplated in the recruitment Rules in force. Equal opportunity in a public employment is the Constitutional mandate and authorities competent while undertaking the process of selection is bound to follow the recruitment procedures strictly and scrupulously. In the present case on hand, the grievances of the writ petitioner is that the respondents are following the old Rules and not following the current Rules in force. It is

needless to state that the competent authorities while undertaking the process of selection has to follow the recruitment Rules which all are in force and therefore, the appointments are to be made strictly in accordance with Rules.

5. The Learned Government Advocate appearing on behalf of the respondent states that the writ petitioners are not eligible and the same has been enumerated in para 6 of the counter affidavit filed by the 7th respondent are reads as under:-

"6. with reference to the averments made in paragraph 7. it is submitted that the first method of appointment to the post of Heart Lung Hypothermia Machine Technician is "by promotion from the holders of the post of Heart Lung Hypothermia Machine Attenders". If no qualified candidates are available as per the first method of appointment only, the second method of appointment viz." by recruitment by transfer from any other service" has been resorted to. If no qualified candidates are available as per the first and second methods of appointment, the third of appointment viz."by direct recruitment" has been resorted to. In the said rules, the qualification " pass in Certificate Course of Pump Technician" possessed by the petitioners has not been included as qualification for appointment to the post of Heart Lung Hypothermia Machine Technician by direct recruitment. Until and unless the rules related tot he post of Heart Lung Hypothermia Machine Technician have been amended, the petitioners are not eligible for appointment to the post of Heart Lung Hypothermia Machine Technician.

6. However, this Court is of an opinion that the writ petitioner's have to participate in the process of selection for the purpose of securing public employment in accordance with the Rules in force. With these observations the writ petition stands dismissed. However, there shall be no order as to costs. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

jas/pkn

To

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Department of Health and Family Welfare,
Secretariat, Fort St George,
Chennai - 600 009.

2.The Chairman,
Medical Service Recruitment Board,
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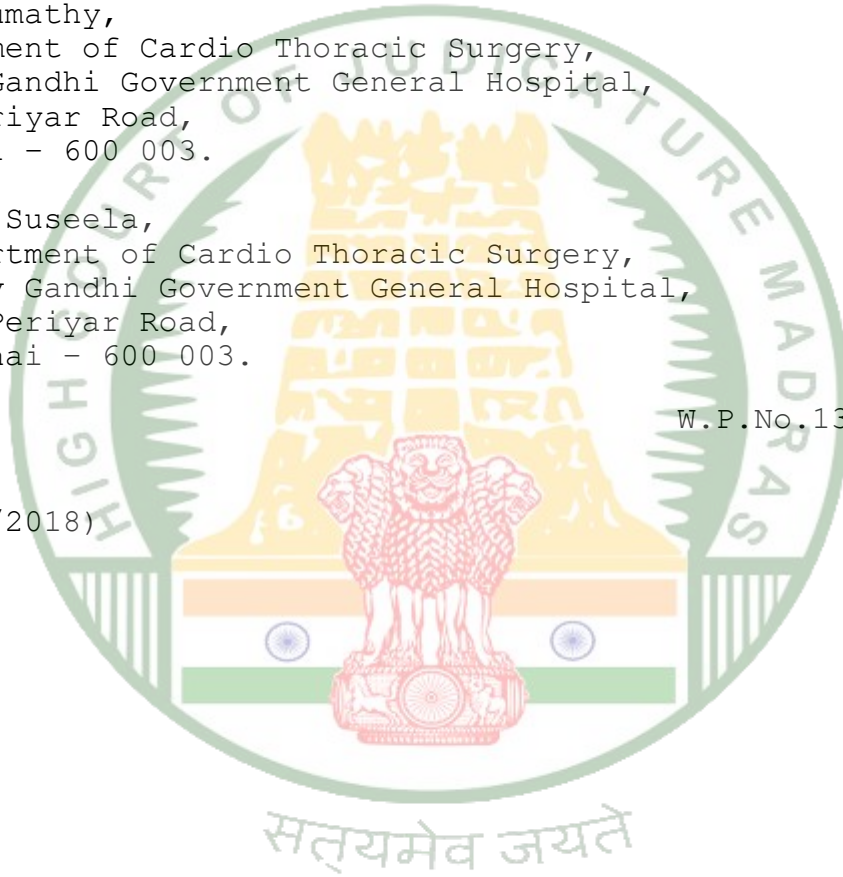
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GP(CO)
GSP(29/11/2018)



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