

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Tuesday, the Thirteenth day of February Two Thousand Eighteen

PRESENT

THE HON`BLE MR.JUSTICE SATRUGHANA PUJAHARI

WMP No.3734 of 2018

in WP No.34118 of 2017

1 S.KARTHIKEYAVENKATESAN [PETITIONERS]

2 P.NAVALADI

3 D.SWAMINATHAN

4 S.DHANASEKARAN

5 D.VETRIVEL

Vs

1 THE STATE OF TAMIL NADU [RESPONDENTS]
REP. BY ITS SECRETARY TO GOVERNMENT,
HEALTH AND FAMILY WEFLARE DEPARTMENT,
FORT ST.GEORGE, CHENNAI-9.

2 THE DIRECTOR OF MEDICAL
EDUCATION, 162, EVR PERIYAR SALAI,
KILPAUK, CHENNAI-10.

3 THE DIRECTOR OF MEDICAL AND
RURAL HEALTH SERVICES MEDICAL AND RURAL
HEALTH SERVICES, 361, DMS COMPLEX,
ANNA SALAI, CHENNAI-6.

4 THE DIRECTOR OF PUBLIC HEALTH
AND PREVENTIVE MEDICINE,
359, ANNA SALAI, TEYNAMPET, CHENNAI-6.

5 THE MEDICAL SERVICE RECRUITMENT BOARD,
REP.BY ITS CHAIRMAN,
7TH FLOOR, DMS BUILDING,
359, ANNA SALAI, TEYNAMPET,
CHENNAI-6.

6 S.SHANTHIVINOTHINI
GOVERNMENT PRIMARY HEALTH CENTRE.
MUNANJIPATTI,
TIRUNELVELI-627 355.

7 M.VALARMATHI
GOVERNMENT PRIMARY HEALTH CENTRE,
SILATHUR, THANJAVUR-614 622.

8 TWO YEARS DIPLOMA MEDICAL
LABORATORY TECHNICIAN ASSN,
REP. BY ITS SECRETARY,
N.NIVAS CHAKRAVARTHY, NO.23/-27A,
JHANSI RANI STREET, NH-3, MARAIMALAI NAGAR,
KANCHEEPURAM DT-603 209.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to Vacate the Interim Injunction passed by this Hon'ble Court on 28.12.2017 in WMP No.37872 of 2017 in WP.No.34118 of 2017 pending WP.No.34118 of 2017.

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.P.WILSON SENIOR COUNSEL for M/S.S.SENTHIL, Advocate for the petitioner and of MR.K.RAVIKUMAR ADDL.GOV'T.PLEADER for the respondents 1 to 5 and of MRS.NALINI CHIDAMBARAM SENIOR COUNSEL for M/S.N.R.R.ARUN NATARAJAN Advocate for the 8th respondent the court made the following order:-

This writ miscellaneous petition at the instance of respondents 8 to 12 in the writ petition, has been filed to vacate the interim order of injunction passed by this Court in WMP No.37872 of 2017 directing the 3rd respondent not to fill up the post of Lab Technician Grade II.

2 It appears that the aforesaid writ petition was filed by the members of the Writ Petitioner - Association, holding two years Diploma in Medical Laboratory. The post of Lab Technician Grade-II is required to be filled up by persons holding Diploma in Medical Laboratory and it is only in the event of non availability of sufficient number of Diploma in Medical Laboratory (DMLT), the persons holding Certificate in Medical Laboratory Technology (CMLT) are required to be given employment. It is the averment of the writ petitioner that the Government is attempting to fill up such post by giving employment to those who hold CMLT which is illegal and contrary to the qualification prescribed and prayed for a direction to the Government to fill up the said post with candidates who possess DMLT qualification. In the aforesaid writ petition, vide order passed in the aforesaid writ miscellaneous petition, the respondents in the writ petition were enjoined from conducting counseling to the said post. The present writ miscellaneous petition is filed to vacate such order.

3 Needless to state that Lab Technician Grade II is required to be filled up by direct recruitment and also by transfer from the post of Laboratory Assistant. So far as the direct

recruitment is concerned, the qualification has been prescribed that the candidate seeking recruitment must have passed Diploma in Medical Laboratory Technology course (two years duration) conducted by the King Institute of Preventive Medicine or from any other Institution recognized by the Government of Tamil Nadu and it is only in the event of non-availability of such candidates, the said post can be filled up by qualified candidates holding Certificate in Medical Laboratory Technology (one year duration). But recruitment by transfer / by promotion of the departmental candidates, the qualification prescribed is that he/she must be a Laboratory Assistant which is Laboratory Technician Grade-III.

4 The grievance of the members of the writ petitioner - Association is that against the direct recruitment, which has already been advertised, though sufficient DMLT qualified candidates are there Government is illegally going to include candidate with CMLT for counselling. But there grievance is not against any to fill up the post earmarked for transfer/promotion. Now the Government wants to fill up certain posts by way of recruitment by transfer and therefore, they have come up for clarification of the aforesaid interim order.

5. Needless to state that the aforesaid post is required to be filled up by the Health Department of the Government in the exigency of service to the public. The Government wants to full up certain post earmarked for recruitment by transfer / promotion. Many departmental candidates who are having qualification for recruitment by transfer have a legitimate expectation to the aforesaid post by way of recruitment by transfer are deprived of the same for the interim order. The writ petition is at the instance of the candidates for direct recruitment. They appears to have any grievance against the post meant to be filled up by recruitment by transfer. The posts are required to be filled up in exigency of public service.

6. Hence, this Writ Miscellaneous Petition filed by respondents No.8 to 12 is allowed and it is made clear that the interim order passed in WMP.No.37872 of 2017 vide order dated 28.12.2017 shall not stand in the way of the Government to fill up the post of Lab Technician by way of recruitment by transfer. However, the Government is injuncted to fill up the post 524 post already advertised for direct recruitment till the disposal of the writ petition.

7 With the aforesaid order, the above writ miscellaneous petition stands allowed.

-sd/-

13/02/2018

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE SECRETARY TO GOVERNMENT
GOVERNMENT OF TAMILNADU, HEALTH AND FAMILY
WEFLARE DEPARTMENT,
FORT ST. GEORGE, CHENNAI-9.

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5 THE CHAIRMAN
THE MEDICAL SERVICE RECRUITMENT
BOARD, 7TH FLOOR, DMS BUILDING,
359, ANNA SALAI, TEYNAMPET, CHENNAI-6.

C.C. to M/S.S.SENTHIL Advocate SR.NO.1790

C.C. to MR.N.R.R.ARUN NATARAJAN Advocate SR.NO.1759

Order

in
WMP.3734/2018

in
WP.34118/2017

Date :13/02/2018

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VS 19.02.2018 (I.T)