

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 07-12-2018

CORAM:

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

WP Nos.23741,23915,24007 to 24011,24300 to 24302, 24478, 24498,
24772 to 24775, 24860, 25078 of 2013
And
connected Miscellaneous Petitions

1. J.Judson Neslin
2. P.Karthikeyan
3. M.Praveen Kumar
4. P.Sinrasu
5. C.Saranya Devi
6. P.Pradhap
7. J.Balasubramaniyan
8. P.Arun
9. K.Gowdhaman
- 10.M.Poornima
- 11.A.Sakthiganesan
- 12.S.Ajay Mithra
- 13.R.S.Jayapratha
- 14.S.Giridharakannan

... Petitioners in WP No.23741 of 2013

PRAVIN.S

... PETITIONER in WP No.23915 of 2013
and WP.No.24498 of 2013

PRIYADHARSHINI V.

... PETITIONER in WP No.24007 of 2013

YAMUNA J

... PETITIONER in WP No.24008 of 2013

NISHA.G

... PETITIONER in WP No.24009 of 2013

KIRUTHIGA P.

... PETITIONER in WP No.24010 of 2013

R.RAJALAKSHMI

... PETITIONER in WP No.24011 of 2013

B.SARITHRA

... PETITIONER in WP No.24300 of 2013

VIMALAKANNAN.S

... PETITIONER in WP No.24301 of 2013

GOPINATH

... PETITIONER in WP No.24302 of 2013

1.NAVINKUMAR

2.G.RAAM SATHISH

3.V.SINDHUJA

... PETITIONER in WP No.24478 of 2013

S.PRAVIN ... PETITIONER in WP No.24498 of 2013
RANJITH KUMAR ... PETITIONER in WP No.24772 of 2013
U.S.ARUTSELVAN ... PETITIONER in WP No.24773 of 2013
K.JEYARAMPRASATH ... PETITIONER in WP No.24774 of 2013
M.ALEXANDER ... PETITIONER in WP No.24775 of 2013
P.MADHAVAKUMARAN ... PETITIONER in WP No.24860 of 2013
D.KAVYAH ... PETITIONER in WP No.25078 of 2013

vs.

1. The Secretary, State of Tamil Nadu,
Health & Family Welfare Dept,
Fort St.George, Chennai - 9. ... 1st Respondent in WP.No.23741,
23915, and 24498 of 2013
2. The Member Secretary,
Medical Services Recruitment Board,
7th floor, 359, Anna Salai,
Teynampet, Chennai-6. ... 1st Respondent in WP.Nos.24007 to 24011,
24300 to 24302, 24772 to 24775,
24478, 24860, 25078 & 2nd Respondent
in 23741, 23915 and 3rd Respondent
in 24498 of 2013
3. The Tamil Nadu Dr.M.G.R.Medical University
Rep.by the Registrar, 69, Anna Salai,
Guindy, Chennai-32. ... 2nd Respondent in 24007 to 24011,
24300 to 24302 of 2013 and
5th Respondent in 25078 of 2013
4. The Director of Medical Services,
Director of Medical Service Campus,
No.359, Anna Salai, Chennai-6. ... 2nd Respondent in 24478,
24860 and 25078 of 2013
5. The Director of Public Health and
Preventive Medicine,
Director of Medical Service Campus,
No.359, Anna Salai, Chennai. ... 2nd Respondent in 24498, 24772 to
24775 of 2013 3rd Respondent
in 24478, 25078 of 2013

- | | |
|-----------------------|--|
| 6. SHAMEEMA | .. 4 th Respondent in 24478 of 2013 |
| 7. VIDUTHALAI VENDHAN | .. 4 th Respondent in 24498 of 2013 |
| 8. THENRAL | .. 5 th Respondent in 24498 of 2013 |
| 9. VINODH KUMAR | .. 6 th Respondent in 24498 of 2013 |
| 10. BRINDA | .. 7 th Respondent in 24498 of 2013 |

Prayers:-

WP.No.23741 of 2013:-

This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents to consider and appoint the petitioners herein as Assistant Surgeon (General) on the basis of the Notification 01/2013 dated 31.03.2013 of the second respondent by taking in to account the last date of the completion of Compulsory Rotatory Resident Internship (CRRI) i.e., 30.03.2013 or in the alternate the date of certificate verification as the criteria for the purpose of Appointment and to extend all benefits arising thereto.

WP.No.23915 of 2013:-

Directing the respondents to consider and appoint the petitioner herein as Assistant Surgeon (General) on the basis of the Notification 01/2013 dated 31.03.2013 of the second respondent by taking into account the last date of the completion of Compulsory Rotatory Resident Internship (CRRI) i.e., 30.03.2013 or in the alternate the date of certificate verification as the criteria for the purpose of Appointment and to extend all benefits arising thereto.

WP.No.24007 of 2013:-

calling for the entire records pertaining to the appointments made towards the post of Assistant Surgeon (General - MBBS) conducted by the Medical Services Recruitment Board, the 1st respondent herein and quash Section 9 (d) of Notification 1/2013 titled Instruction to Candidates issued by 1st respondent as arbitrary and unreasonable, being violative of rules and principles of natural justice and thereby direct the 1st respondent herein to consequentially declare the petitioner to be eligible for the post of Assistant Surgeon (General-MBBS)

WP.No.24008 of 2013:-

calling for the entire records pertaining to the appointments made towards the post of Assistant Surgeon (General - MBBS) conducted by the Medical Services Recruitment Board, the 1st respondent herein and quash Section 9 (d) of Notification 1/2013 titled Instruction to Candidates issued by 1st respondent as arbitrary and unreasonable, being violative of rules and principles of natural justice and thereby direct the 1st respondent herein to consequentially declare the petitioner to be eligible for the post of Assistant Surgeon (General-MBBS)

WP.No.24009 of 2013:-

calling for the entire records pertaining to the appointments made towards the post of Assistant Surgeon (General - MBBS) conducted by the Medical Services Recruitment Board, the 1st respondent herein and quash Section 9 (d) of Notification 1/2013 titled Instruction to Candidates issued by 1st respondent as arbitrary and unreasonable, being violative of rules and principles of natural justice and thereby direct the 1st respondent herein to consequentially declare the petitioner to be eligible for the post of Assistant Surgeon (General-MBBS)

WP.No.24010 of 2013:-

calling for the entire records pertaining to the appointments made towards the post of Assistant Surgeon (General - MBBS) conducted by the Medical Services Recruitment Board, the 1st respondent herein and quash Section 9 (d) of Notification 1/2013 titled Instruction to Candidates issued by 1st respondent as arbitrary and unreasonable, being violative of rules and principles of natural justice and thereby direct the 1st respondent herein to consequentially declare the petitioner to be eligible for the post of Assistant Surgeon (General-MBBS)

WP.No.24011 of 2013:-

calling for the entire records pertaining to the appointments made towards the post of Assistant Surgeon (General - MBBS) conducted by the Medical Services Recruitment Board, the 1st respondent herein and quash Section 9 (d) of Notification 1/2013 titled Instruction to Candidates issued by 1st respondent as arbitrary and unreasonable, being violative of rules and principles of natural justice and thereby direct the 1st respondent herein to consequentially declare the petitioner to be eligible for the post of Assistant Surgeon (General-MBBS)

WP.No.24300 of 2013:-

Calling for the entire records pertaining to the appointments made towards the post of Assistant Surgeon (General-MBBS) conducted by the Medical Services Recruitment Board, the 1st Respondent herein and quash Section 9(d) of Notification 1/2013 titled titled Instruction to Candidates issued by 1st respondent

as arbitrary and unreasonable, being violative of rules and principles of natural justice and thereby direct the 1st respondent herein to consequentially declare the petitioner to be eligible for the post of Assistant Surgeon (General-MBBS)

WP.No.24301 of 2013:-

Calling for the entire records pertaining to the appointments made towards the post of Assistant Surgeon (General-MBBS) conducted by the Medical Services Recruitment Board, the 1st Respondent herein and quash Section 9(d) of Notification 1/2013 titled Instruction to Candidates issued by 1st respondent as arbitrary and unreasonable, being violative of rules and principles of natural justice and thereby direct the 1st respondent herein to consequentially declare the petitioner to be eligible for the post of Assistant Surgeon (General-MBBS)

WP.No.24302 of 2013:-

Calling for the entire records pertaining to the appointments made towards the post of Assistant Surgeon (General-MBBS) conducted by the Medical Services Recruitment Board, the 1st Respondent herein and quash Section 9(d) of Notification 1/2013 titled titled Instruction to Candidates issued by 1st respondent as arbitrary and unreasonable, being violative of rules and principles of natural justice and thereby direct the 1st respondent herein to consequentially declare the petitioner to be eligible for the post of Assistant Surgeon (General-MBBS)

WP.No.24478 of 2013:-

to call for the records relating to the Corrigendum/Addendum dated Nil issued in Official Website of the 1st respondent in so far as it relates to Corrigendum issued for modification of Instructions to the candidates issued by the 1st respondent in Notification No.1/2013 dt 31.3.2013 and the consequential Notification No.5/MRB/ E4/2013 dt 21.8.2013 published in the Official Website of the 1st respondent and quash the same and to consequently direct the 1st respondent to consider the petitioner for selection and appointment to the post of Assistant Surgeon (General) pursuant to the Notification No.01/2013 dt 31.3.2013 issued by the 1st respondent

WP.No.24498 of 2013:-

Calling for records relating to the 3rd respondent proceedings made in Notification No.5/MRB/ E4/2013 dated 21.8.2013, to quash the same in so far as it includes respondents 4 to 7 are concerned and to consequently direct the respondents to appoint the petitioner forthwith as Assistant Surgeon (General) pursuant to the Notification 01/2013 dated 31.3.2013 of the second respondent by taking into account the last date of the completion of Compulsory Rotatory Internship (CRRi) i.e. 30.3.2013 or in the alternate the Date of

Certificate Verification as the criteria for the purpose of Appointment and extend all benefits arising thereto

WP.No.24772 of 2013:-

calling for the entire records pertaining to the appointments made towards the post of Assistant Surgeon (General - MBBS) conducted by the Medical Services Recruitment Board, the 1st respondent herein and quash Section 9 (d) of Notification 1/2013 titled Instruction to Candidates and Corrigendum dated 9.4.2013 amending Section 9 (d), both issued by 1st respondent as arbitrary and unreasonable, being violative of rules and principles of natural justice and consequentially direct the 1st respondent herein to declare the Provisional List of Final Selected Candidates dated 21.8.2013 as invalid and to prepare a fresh list of candidates including the petitioner

WP.No.24773 of 2013:-

calling for the entire records pertaining to the appointments made towards the post of Assistant Surgeon (General - MBBS) conducted by the Medical Services Recruitment Board, the 1st respondent herein and quash Section 9 (d) of Notification 1/2013 titled Instruction to Candidates and Corrigendum dated 9.4.2013 amending Section 9 (d), both issued by 1st respondent as arbitrary and unreasonable, being violative of rules and principles of natural justice and consequentially direct the 1st respondent herein to declare the Provisional List of Final Selected Candidates dated 21.8.2013 as invalid and to prepare a fresh list of candidates including the petitioner

WP.No.24774 of 2013:-

calling for the entire records pertaining to the appointments made towards the post of Assistant Surgeon (General - MBBS) conducted by the Medical Services Recruitment Board, the 1st respondent herein and quash Section 9 (d) of Notification 1/2013 titled Instruction to Candidates and Corrigendum dated 9.4.2013 amending Section 9 (d), both issued by 1st respondent as arbitrary and unreasonable, being violative of rules and principles of natural justice and consequentially direct the 1st respondent herein to declare the Provisional List of Final Selected Candidates dated 21.8.2013 as invalid and to prepare a fresh list of candidates including the petitioner

WP.No.24775 of 2013:-

calling for the entire records pertaining to the appointments made towards the post of Assistant Surgeon (General - MBBS) conducted by the Medical Services Recruitment Board, the 1st respondent herein and quash Section 9 (d) of Notification 1/2013 titled Instruction to Candidates and Corrigendum dated

9.4.2013 amending Section 9 (d), both issued by 1st respondent as arbitrary and unreasonable, being violative of rules and principles of natural justice and consequentially direct the 1st respondent herein to declare the Provisional List of Final Selected Candidates dated 21.8.2013 as invalid and to prepare a fresh list of candidates including the petitioner

WP.No.24860 of 2013:-

calling for the records relating to the corrigendum/Addendum/ dated nil, issued in the Medical Recruitment Board website, quash the same and direct the respondents to consider petitioner for the post of Assistant Surgeon (General) pursuant to the notification 1/2013 dated 31.3.2013

WP.No.25078 of 2013:-

to call for the records relating to the Corrigendum/Addendum dated Nil issued in official website of the 1st respondent insofar as it relates to Corrigendum issued for modification of Instructions 9(d) [page 11] of the Instructions to the candidates issued by the 1st respondent in Notification No.1/2013 dated 31.3.2012 and the consequential Notification No.5/MRB/E4/2013 dated 21.8.2013 published in the official website of the 1st respondent and to quash the same and to consequently direct the 1st respondent to consider the petitioner for selection and appointment to the post of Assistant Surgeon (General) pursuant to the Notification No.01/2013 dated 31.3.2013 issued by the 1st respondent

For Petitioner : M/s.L.Chandrakumar
in W.P.No.23741; 23915; 24498

Mr.N.Suryasenthil
in WP.24007 to 24011; 24300 to
24302; 24772 to 24775 of 2013

Mr.R.Varadaraj
in WP.No.24860

For Respondents : Mr.B.Anand
Government Advocate for R1
in WP.No.23741; 23915

R2 & R3 in WP.No.24478 of 2013

R1 & R2 in WP.No.24498

R2 in WP.No.24860 of 2013

R2 & R3 in WP.No.25078 of 2013.

Mr.A.Vivek

R2 in WP.No.23741; 23915;

R1 in WP.No.24007 to 24011;

R1 in WP.No.24300 to 24302;

R1 in WP.No.24478;

R3 in WP.No.24498;

R1 in WP.No.24772 to 24775;

R1 in WP.No.24860 of 2013;

R1 in WP.No.25078

No Appearance

For R2 : in WP.24007 to 24011; 24300 to 24302

No Appearance

For Petitioner : in WP.No.24478 of 2013 &
WP.No.25078 of 2013

COMMON ORDER

In all these batch of writ petitions, the relief sought for is for a direction to the respondents to consider and appoint the petitioners herein as Assistant Surgeon (General) on the basis of the Notification 01/2013 dated 31.03.2013 of the second respondent by taking in to account the last date of the completion of Compulsory Rotatory Resident Internship (CRRI) i.e., 30.03.2013.

2. This Court while dealing with an identical issue, in a batch of writ petition Nos. 24730, 24731, 24113, 24114, 23816 to 23818, 23984, 24145, 24483, 24778 to 24783, 25065, 25104, 22952, 23093 & 23094 of 2013 by order dated 14.02.2017, passed the following orders:-

"The relief sought for in these writ petitions are to call for the records and quash the same and consequently direct the respondents to appoint the petitioners forthwith as Assistant Surgeon (General) pursuant to the Notification 01/2013 dated 31.03.2013, by taking into account the last date of the completion of Compulsory Rotatory Resident Internship (CRRI) i.e., 30.03.2013 or in alternate, the date of certificate verification as the criteria for the purpose of Appointment and to extend all benefits arising thereto.

2.The learned counsel for the petitioners states that all the writ petitioners have provisionally registered their names in the Medical Council of Tamil Nadu and there was a delay for permanent registration of the names of the writ petitioners, on account of certain administrative reasons. However, it is brought to the notice of this Court that the permanent registration with the Medical Council of Tamil Nadu is a mandatory provision for the purpose of submitting application for recruitment to the post of Assistant Surgeon as well as for commencing the medical practice.

3.However, these questions are to be adjudicated at length by hearing the respective parties in these writ petitions. All the writ petitioners were appointed long back during the pendency of the writ petitions and they are continuing in the post of Assistant Surgeon and some of the writ petitioners have been admitted for PG course and they are pursuing the education.

4.Considering the factual circumstances prevailing in these writ petitions, this Court is of the opinion that the appointments made long back need not be disturbed in view of the fact that the writ petitioners are continuing in the post and on account of the fact that there is a dearth of qualifying Doctors to be accommodated in various Government Hospitals including Primary Health Centres in Rural areas.

5.Considering these peculiar circumstances, the appointments made in favour of the writ petitioners long back may be allowed to continue and the respondents need not disturb their appointments. The respondents are at liberty to consider all the service benefits, in accordance with law in respect of the prescription of cut-off date and in respect of the permanent registration with the Medical Council of Tamil Nadu.

6.Accordingly, all these writ petitions stands disposed of. However, there is no order as to costs. Consequently, the connected Miscellaneous petitions are closed."

3. With the consent of all the parties, the same order is being passed to all these writ petitions. Accordingly, all

the writ petitions stand disposed of in terms of the order dated 14.02.2017. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Pkn/Gsp

To

1. The Secretary, State of Tamil Nadu,
Health & Family Welfare Dept,
Fort St.George, Chennai - 9.
2. The Member Secretary,
Medical Services Recruitment Board,
7th floor, 359, Anna Salai,
Teynampet, Chennai-6.
3. The Tamil Nadu Dr.M.G.R.Medical University
Rep by the Registrar,
69, Anna salai, Guindy, Chennai-32.
4. The Director of Medical Services,
Director of Medical Service Campus,
No.359, Anna Salai, Chennai-6.
5. The Director of Public Health and
Preventive Medicine,
Director of Medical Service Campus,
No.359, Anna Salai, Chennai.

+3cc to M/s.L.Chandrakumar, Advocate, S.R.No.84654
+1cc to Mr.N.Suryasenthil, Advocate, S.R.No.85553
+2cc to Mr.R.N.Amarnath, Advocate, S.R.No.84990, 84991
+1cc to the Government Pleader,
S.R.No.85082, 85083, 85084, 83085, 85086

WP Nos.23741,23915,24007 to 24011,
24300 to 24302, 24478, 24498,
24772 to 24775, 24860, 25078 of 2013

RSV(CO)
CS/31/01/2019