

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 14-12-2018

CORAM:
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

WP Nos.25567 to 25570 of 2013
and
connected Miscellaneous Petitions

N.Thiruppathiraja ..Petitioner in W.P.No.25567 of 2013
H.Mohamed Jafarullah ..Petitioner in W.P.No.25568 of 2013
B.Sanjay ..Petitioner in W.P.No.25569 of 2013
Rakesh Sebastin X ..Petitioner in W.P.No.25570 of 2013

vs.

1. The Secretary,
Medical Services Recruitment Board,
7th floor, DMS Buildings,
359, Anna Salai,
Teynampet, Chennai-600 006.
2. Office of Director of Public Health
and Preventive Medicine,
359, Anna Salai,
Teynampet, Chennai-600 006.
3. The Tamil Nadu Dr.MGR Medical University,
Rep.by the Registrar,
69, Anna Salai,
Guindy,
Chennai - 600 032. ..Respondents in all writ petitions

Common Prayer :

These Writ Petitions are filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the appointments made towards the post(s) 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 09.04.2013 amending Section 9 (d), both issued by the 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 21.08.2013 as invalid and to prepare a fresh list of candidates including the petitioner(s).

For Petitioners : M/s.N.Surya Senthil
in all writ petitions

For Respondents : Mr.A.Vivek, Standing Counsel
for R1

Mr.B.Anand
Government Advocate for R2
in all writ petitions

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-MBBS) on the basis of the Notification 01/2013 dated 09.04.2013 of the first respondent by taking in to account to declare the "Provisional List of Final Selected Candidates" dated 21.08.2013 as invalid and to prepare a fresh list of candidates including the petitioner(s).

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 Counsel 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 Counsel 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 in all these writ petitions. Accordingly, 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,
Medical Services Recruitment Board,
7th floor, DMS Buildings,
359, Anna Salai,
Teynampet, Chennai-600 006.

2.Office of Director of Public Health
and Preventive Medicine,
359, Anna Salai,
Teynampet, Chennai-600 006.

3.The Registrar,
Tamil Nadu Dr.MGR Medical University,
69, Anna Salai,
Guindy, Chennai - 600 032.

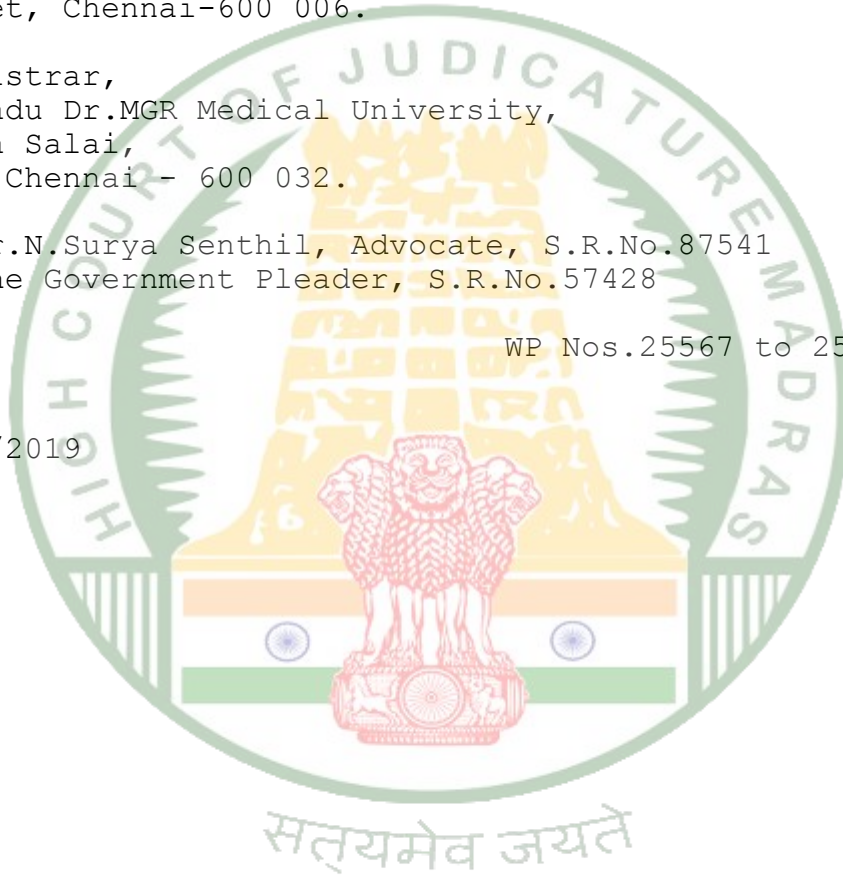
+1cc to Mr.N.Surya Senthil, Advocate, S.R.No.87541

+1cc to the Government Pleader, S.R.No.57428

WP Nos.25567 to 25570 of 2013

PA(CO)

rrs 30/01/2019



WEB COPY