

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.6732 of 2018

K.M.Murali Mohan

.. Petitioner

-vs-

1. The Secretary to Government  
Health, Medical Education and Family  
Welfare Department  
Fort St.George  
Chennai 600 009
2. The Secretary to Government  
Personnel and Administrative Department  
Fort St.George  
Chennai 600 009
3. The Director of Medical Education  
EVR Periyar Salai  
Kilpauk  
Chennai 600 010
4. The Dean  
Government Stanley Hospital  
Chennai 600 001

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents to appoint the petitioner in any suitable post which is lower than the post of the ECG Technician based on the report of the fourth respondent dated 24.07.2017.

For Petitioner :: Mrs.Greetha Senthilkumar

For Respondents :: Mr.A.Rajaperumal  
Additional Government Pleader

ORDER

This writ petition has been filed seeking a mandamus directing the respondents to appoint the petitioner in any suitable post which is lower than the post of the ECG Technician based on the report of the Dean, Government Stanley Hospital, the fourth respondent herein dated 24.07.2017.

2. Learned counsel for the petitioner submitted that the petitioner was appointed as ECG Technician in the Government Stanley Hospital, Chennai on 31.8.2007 and immediately he joined duty on 7.9.2007. He was also instructed to pass the Second Class Language Test in Tamil conducted by the Tamil Nadu Public Service Commission within four years from the date of joining duty. Although he appeared in the test then and there being conducted by the Tamil Nadu Public Service Commission, he was unable to pass the test till 2011, as a result the petitioner's probation was also extended for a further period of one year by the Dean, Government Stanley Hospital, Chennai, the fourth respondent herein. As the petitioner was not instructed properly about the grade of language test to be passed, he appeared in the Advanced Language Test conducted for the officers since 2007 till 2011 and thereby he had wasted five years time. But this has not been looked into at the time of terminating his services by the fourth respondent on 6.2.2013 under Rule 26(b)(i) of the Tamil Nadu State and Subordinate Services Rules. As against that, the petitioner preferred an appeal before the Director of Medical Education, the third respondent herein unsuccessfully and again, after rejection of his appeal on 17.6.2013 by the third respondent, a review petition was also filed before the second respondent. But the same was not considered. The learned counsel for the petitioner submitted that only thereafter, the petitioner came to this Court with W.P.No.17780 of 2014 seeking to quash the order of termination passed by the fourth respondent, which was also confirmed by the third respondent, with a consequential direction to reinstate him in service and also to grant two more years to pass the second language test in Tamil. This Court, by order dated 1.8.2014, directed the third respondent to forward the review petition sent by the fourth respondent to the second respondent with a further direction to the second respondent to pass appropriate orders. Now the petitioner has sent a representation on 5.1.2017 requesting the respondents to appoint him in any post which is lower than the category of ECG Technician.

3. But this Court hardly finds any merit in the writ petition. The reason is that when the petitioner was given four years time to pass the Second Class Language Test in Tamil conducted by the Tamil Nadu Public Service Commission from the date of his joining the post of ECG Technician in the Government Stanley Hospital on 7.9.2007, admittedly, he has not passed the test within four years time. Moreover, when the order of termination was passed under Rule 26(b)(i) of the Tamil Nadu State and Subordinate Service Rules on 6.2.2013 by the fourth respondent, the said order also, on appeal, was confirmed by the third respondent on 17.6.2013. Therefore, it is not for the fourth respondent again to make any recommendation for his appointment lower than the post of ECG Technician. When the

petitioner was found ineligible to hold the post of ECG Technician, no writ petition can be filed seeking any more appointment. Hence, the writ petition is dismissed. No costs.

Sd/-  
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government  
Health, Medical Education and Family  
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2. The Secretary to Government  
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4. The Dean  
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+ 1 cc to Mr. Government Pleader Sr.23933

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(CS-VI)  
EU(12/04/2018)

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