

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :04.10.2018
CORAM
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No. 6081 of 2013
MP.No.1 of 2013

Dr.Suresh Kumar R ..Petitioner

vs

1.The Secretary to Government,
Health & Family Welfare Department,
Fort.St.George, Chennai-600 009.

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

3.The Secretary,
Tamil Nadu Public Service Connection,
Frazer Bridge Road, V.O.C.Nagar,
Park Town, Chennai-600003.

4.The Director,
Directorate of Medical Education,
162, EVR Periyar Salai,
Kilpauk, Chennai-600 010.

5.The Secretary,
Selection Committee,
Directorate of Medical Education,
162, EVR Periyar Salai,
Kilpauk, Chennai-600 010. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 and 2 to issue appointment order to the petitioner for the permanent post of Asst.Surgeon as per the list of selected candidates published by the 3rd respondent dated 29.09.2010 and as per the recommendations issued by the 2nd respondent dated 23.4.2012 and grant all service benefits to the petitioner on par with the candidates already appointed as per the list of selected candidates published by the 3rd respondent dated 29.09.2010 and simultaneously directing the 4th and 5th respondent to permit the petitioner to participate in the counseling for admission for PG courses in the academic year 2013-14 and get admission subject to his merit.

For Petitioner : Mr.S.Thankasivan

For Respondents : Mr.K.Karthikeyan

Government Advocate
for R1, R2, R4 & R5

Mrs.C.N.G.Niraimathi

O R D E R

The relief sought for in this writ petition is for a direction to direct the respondents 1 and 2 to issue appointment order to the petitioner for the permanent post of Asst.Surgeon, as per the list of selected candidates published by the 3rd respondent dated 29.09.2010 and as per the recommendations issued by the 2nd respondent dated 23.4.2012 and grant all service benefits to the petitioner on par with the candidates already appointed as per the list of selected candidates published by the 3rd respondent dated 29.09.2010.

2. The learned counsel appearing for the petitioner states that the writ petitioner is now employed as an Assistant Surgeon in Primary Health Centre. The petitioner applied for appointment to the post of Assistant Surgeon (General/Specialities), pursuant to the notification issued by the respondents. He participated in the process of selection and the case of the writ petitioner is that his name was included in the reserve list and while releasing the reserve list, his name was not considered for appointment.

3. The learned counsel appearing for the petitioner states that the petitioner is an in-service candidate and therefore, all preference must be given in respect of such in-service candidates, who are already serving in Tamil Nadu Medical Services. However, the case of the writ petitioner had not been considered and other similarly placed persons were considered and appointed.

4. The learned Government Advocate appearing on behalf of the respondents brought to the notice of this Court that the writ petitioner was not within the zone of consideration and therefore, he did not issue with an order of appointment.

5. The name of the writ petitioner was included in Serial No.56 of the reserve list, notified by the authorities. However, in the release list, upto the Serial.No.27/Rank No.27 was considered by the authorities for appointment to the post of Assistant Surgeon and therefore, the writ petitioner in Serial No.56 was not considered for the post of Assistants as he was not within the zone of consideration and there is no irregularity in respect of the actions taken by the respondents in the process of selection. Thus, this Court is of an opinion that in the absence of any special provisions to grant preference to the in-service candidates, the writ petitioner cannot claim any preference based on the fact that he is already in Government service. In view of the fact that the writ petitioner was not within the zone of consideration and he has not met out any other legally acceptable grounds for the purpose of interfering with the process of selection, this Court is not inclined to consider the relief as such sought for in the present writ petition.

6. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

04.10.2018

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Internet:Yes/No

Index : Yes/No

Speaking/Non speaking order

To

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S.M.SUBRAMANIAM, J.
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