

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.2466 of 2018
and
W.M.P.Nos.3005 and 3006 of 2018

1. G.Brabahar
2. N.Balasaravanan
3. T.Murugesan
4. A.Amutha
5. K.Sivagami
6. S.Shanthi
7. C.Umapathy
8. A.Nagaraj
9. B.Balamurugan
- 10.P.Nagendramani

... Petitioners

Vs

- 1.The State of Tamil Nadu
rep. by its Secretary to Government,
Health and Family Welfare 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, 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 Services Recruitment Board,
rep. by its Chairman,
7th Floor, DMS Building,
359, Anna Salai, Teynampet,
Chennai-6.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to to issue a Writ of Mandamus, directing the respondents to conduct a written test and make selection to the post of Pharmacist based on Employment Exchange Seniority and marks obtained in the written test to ensure a non-discriminatory method of selection to the post of Pharmacist in Government Primary Health Centres, Hospitals, Medical College Hospitals and ESI Dispensaries.

For Petitioner : Ms.C.Uma

For Respondents : Mrs.P.Rajalakshmi,
AGP for R1 to R4
Mr.A.Vivek for R5

ORDER

The Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the respondents to conduct a written test and make selection to the post of Pharmacists based on Employment Exchange Seniority and marks obtained in a written test to ensure a non-discriminatory method of selection to the post of Pharmacists in Government Primary Health Centres, Hospitals, Medical College Hospitals and ESI Dispensaries.

2. Learned Counsel for the petitioner submitted that when the State Government issued G.O.Ms.No.328, Health and Family Welfare Department, dated 08.10.2009, giving out a clear procedure for selection of Pharmacists in Government Primary Health Centres, Hospitals, Medical College Hospitals and ESI Dispensaries in the State following the Statewise seniority in the Employment Exchange subject to fulfilment of other rules in force, the said Government Order has not been properly implemented till date.

3. The learned Counsel for the petitioner further submitted that in the meanwhile, G.O.Ms.No.36, Health and Family Welfare Department, dated 12.02.2014 has been issued prescribing the rules of procedure for the Medical Services Recruitment Board for direct recruitment to various categories. In addition thereto, one another Government Order in G.O.Ms.No.401, Health and Family Welfare (C2) Department, dated 16.12.2014 has been issued, amending the rules of procedure of Medical Recruitment Board relating to the method of recruitment in respect of paramedical technical staff and the selection will be based on the marks obtained by the candidates in various examinations by giving weightage to their academic performance as detailed below:

Sl.No.	Minimum Educational Qualification required for the post	Degree/Diploma/ Certificate	HSC/PUC	SSLC
1	Degree	50%	30%	20%
2	Diploma	50%	30%	20%
3	Certificate with PUC/HSC qualification	50%	30%	20%
4	Certificate with SSLC	60%	NA	40%
5	Minimum General Educational Qualification (SSLC Pass)	NA	NA	100%

4. When the aforesaid Government Order in G.O.Ms.No.401 dated 16.12.2014 is in force, the 5th respondent has issued a Notification No.6/MRB/2016 dated 31.1.2016 for filling up 333 posts of Pharmacist. Aggrieved by the same, the petitioner has filed W.P.No.5705/2016 challenging the validity of G.O.Ms.No.401 dated 16.12.2014 along with other petitioners. A Division Bench of this Court, by an order dated 06.11.2017 disposed of the said Writ Petitions making it clear that the respondents, without giving effect to weightage system, have to select the candidates in accordance with law. Aggrieved by the Division Bench Order, SLP.Nos.34134 to 43135/2017 have been filed. The same was also dismissed. Thereafter, a representation has been sent on 12.01.2018 seeking the respondents to moderate the weightage system to create a level playing field in the

appointment to the post of Pharmacist, considering the G.O.Ms.No.328, Health and Family Welfare Department, dated 08.10.2009. The same has not been considered. Hence the present Writ Petition.

5. Heard Mrs.P.Rajalakshmi, learned Special Government Pleader who takes notice for respondents 1 to 4 and Mr.A.Vivek, learned Standing Counsel for 5th respondent.

6. This Court hardly finds any merit in the writ petition. The reason is that when the petitioner had already filed W.P.No.5705/2016 challenging the validity of G.O.Ms.No.401, Health and Family Welfare (C2) Department, dated 16.12.2014 and the same has also been disposed of along with other Writ Petitions and the Special Leave Petitions filed against the same have also been dismissed, it goes without saying that the weightage marks specified in the said Government Order followed for appointment of Pharmacists has become final. Therefore, giving any representation dated 12.01.2018 is wholly misconceived. Hence, I am not inclined to give any direction as sought for by the petitioner in the present Writ Petition.

T.RAJA, J.

tsi

7. In view of all the above, the Writ Petition fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petitions are also closed.

05.02.2018

Index:Yes/ No
Internet:Yes/No
Speaking /Non-speaking order

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To

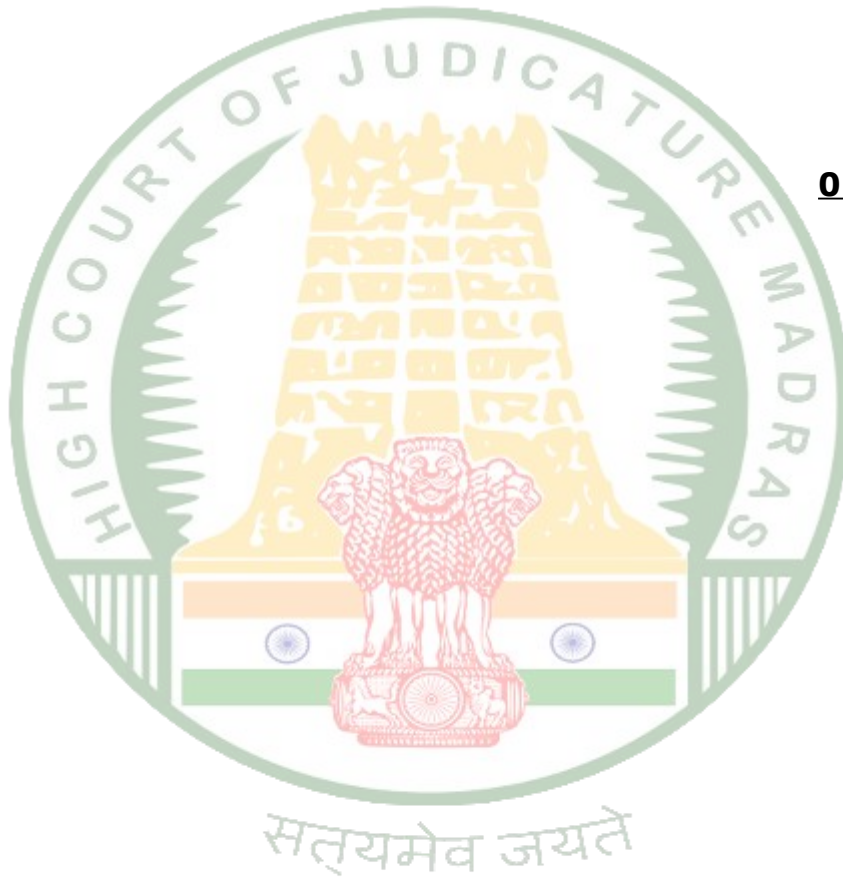
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