

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE SATRUGHANA PUJAHARI

W.P.Nos.13032, 12975, 13267 & 13335 of 2013

& MP.Nos.1 to 4 & 1 to 4 & 1 of 2013

K.Sivaranjan	.	Petitioner in W.P.No.13032 of 2013
V.Boopathy	.	Petitioner in W.P.No.12975 of 2013
S.Selvamani	.	Petitioner in W.P.No.13335 of 2013
R.Suganya	.	Petitioner in W.P.No.13267 of 2013

Vs

- 1.The State of Tamil Nadu,
rep. by its Principal Secretary,
Health and Family Welfare Department,
Secretariat,
Chennai-600 009.
 - 2.The Medical Services Recruitment Board,
rep. by its Member Secretary,
7th Floor, DMS Building,
359, Anna Salai,
Taynampet,
Chennai-600 006.
 - 3.The Director of Medical Education,
Kilpauk,
Chennai-600 010.
 - 4.The Director of Medical & Rural Health Services,
DMS Building,
359, Anna Salai,
Taynampet,
Chennai-600 006.
 - 5.The Director of Medical & Rural Health Services (ESI),
DMS Building,
359, Anna Salai,
Taynampet, Chennai-600 006.
- .. (Respondents
in all Wps).

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified mandamus to call for the records on the file of

the second respondent in connection with the impugned qualification prescribed in the call letter issued in Na.Ka.No./22/MaPaTheVa/2012 dated 20.03.2013 and 08.04.2013 respectively and quash the same as illegal and arbitrary in so far as the petitioner's case is concerned and consequently direct the second respondent to issue appropriate advertisement for the post of Radiographer either by earmarking reservation for the Diploma Holders or by fixing ratio between the Diploma in Radio Diagnosis Technology holders and Certified Radiological Assistant and thereby consider the petitioner's case within the time limit(Prayer in all WPs).

For Petitioners : Mr.L.Ramu

For RR1 to 5 : Mr.P.Raja, Government Advocate

COMMON ORDER

Heard Mr.L.Ramu, learned counsel for the petitioners and Mr.P.Raja, learned Government Advocate, appearing on behalf of the respondents and with their consent, the writ petitions are taken up for final disposal. Since the issue involved in these writ petitions is one and the same, they are disposed of by the following common order.

2. These writ petitions have been filed by the petitioners challenging the inaction of the second respondent in connection with the call letters dated 20.03.2013 issued to them being the sponsored candidates of the Employment Exchange for appointment to the post of Radiographers, to be illegal, arbitrary and to direct the second respondent/the Medical Services Recruitment Board, to give appointment to the petitioners, who are qualified to hold the posts, pursuant to such call letters.

3. It appears that the petitioners are the Diploma holders in Radio Diagnosis Technology from the King Institute of Preventive Medicine & Research, Guindy, Chennai. After obtaining such qualification, the petitioners have registered themselves in the Employment Exchange in their respective Districts. Thereafter, the second respondent issued call letters dated 20.03.2013, to the petitioners, for appointment to the post of Radiographers. For appointment to the said post, the qualifications prescribed are (i) Pass in HSC with Science subjects in the State of Tamil Nadu or equivalent and (ii) Pass in certified Radiological Assistant Course conducted by the Department of Medical Education, Government of Tamil Nadu and in private Institutions approved by the Government of Tamil Nadu, which are conducting CRA course. The petitioners having higher qualification, were called for certificate verification. Thereafter, instead of appointing them, they were rather orally

informed that they were not coming within the selection Zone as they were not having the qualifying certificates required for appointment to the post of Radiographer. The petitioners therefore, have come forward to file the present writ petitions challenging rejection of their candidature and also in- action in accepting their candidature for appointment to the post of Radiographer.

4. Mr.L.Ramu, the learned counsel for the petitioners would submit that such action on the part of the second respondent is illegal, arbitrary and contrary to the provisions as contemplated in law. The learned counsel would further submit that the petitioners have higher qualification than the prescribed in the call letters to the post of Radiographer (Grade-II) and as such, while they were issued with the call letters, they were legitimately accepting the appointment but the authority illegally re-called the call letters issued to the petitioners and therefore, the same is liable to be quashed and the authority/ respondent no.2 may be directed to appoint the petitioners to the post of Radiographer, pursuant to the aforesaid call letters.

5. The learned counsel appearing for the petitioners has also drawn the attention of Court to the decision rendered by the learned Single Judge of Madurai Bench of this Court in W.P. (M.D)Nos.7152, 7153, 7188 & 7213 of 2013 dated 02.08.2016, which squarely cover the petitioners' case.

6. Mr.P.Raja, the learned Government Advocate, on the other hand would submit that since the petitioners have not qualified as prescribed in the Special Rules for the Tamilnadu Medical Service to the post of Radiographer, the writ petitions are devoid of merits and liable to be dismissed. But it is not disputed that though the requirement to the post is certificate course in Radiology, the petitioners are the Diploma holders, which is a higher qualification.

7. The learned Single Judge of the Madurai Bench of this Court in W.P.(M.D)Nos.7152, 7153, 7188 & 7213 of 2013 dated 02.08.2016, in similar facts and situation has taken a view that since the petitioners are having higher qualification than the prescribed as a requirement for recruitment, they are also qualified to be appointed as Radiographer and accordingly directed the writ petitioner therein to call for counseling for recruitment to the said post. The said fact is not disputed by the learned Government Advocate appearing for the respondents. Since the aforesaid direction given by the learned Judge in the aforesaid writ petitions squarely covered the case of the petitioners in these writ petitions, the petitioners are therefore, entitled to the relief sought for and the writs

petitions deserved to be disposed of, in terms of the order passed in the aforesaid writ petitions.

8. Accordingly, these writ petitions are allowed. The petitioners be appointed after due verification of their certificates, if they are otherwise qualified for appointment. If it is found that the petitioners are otherwise not qualified or any other order of injunction restraining the second respondent to appoint the petitioners in the writ petitions is there or any legal impediment is there in giving appointment to the petitioners, the respondent appointing authority may seek review of this order, if so advised. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-ix)

//True Copy//

Sub Assistant Registrar

dn

To

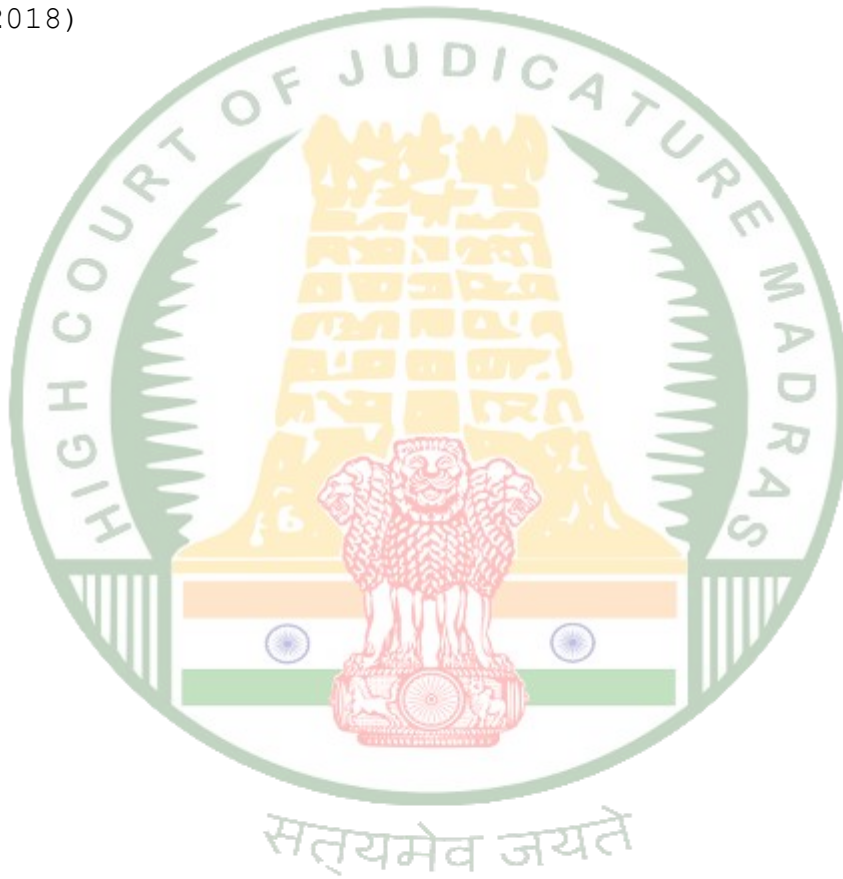
1. The State of Tamil Nadu,
rep. by its Principal Secretary,
Health and Family Welfare Department,
Secretariat,
Chennai-600 009.
2. The Medical Services Recruitment Board,
rep. by its Member Secretary,
7th Floor, DMS Building,
359, Anna Salai,
Taynampet,
Chennai-600 006.
3. The Director of Medical Education,
Kilpauk,
Chennai-600 010.
4. The Director of Medical & Rural Health Services,
DMS Building,
359, Anna Salai,
Taynampet,
Chennai-600 006.

5.The Director of Medical & Rural Health Services(ESI),
DMS Building,
359, Anna Salai,
Taynampet, Chennai-600 006.

+1cc to the Government Pleader, S.R.No. 11308

W.P.Nos.13032, 12975, 13267 & 13335 of 2013
& MP.Nos.1 to 3 of 2015

SR(CO)
TR(01/03/2018)



WEB COPY