

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

W.P.No.18286 of 2018 and
W.M.P.Nos.21603,21604 & 21605 of 2018

Mothi Aniroudh

...Petitioner

Versus

- 1.The State of Tamil Nadu,
Rep. by its Secretary,
Ministry of Health and Family Welfare, Department
Secretariat, Chennai - 600 009.
- 2.Special Secretary to Government,
Public(Ex-Servicemen) Department and Ex-Officio Director,
Directorate of Ex-Servicemen's Welfare,
22, Raja Muthiah Salai, Choolai,
Chennai - 600 003.
- 3.The Secretary,
The Selection Committee,
Office of the Director of Medical Education,
Kilpauk, Chennai - 600 010.
- 4.Medical Council of India,
Rep. By Secretary,
Dwarka Phase, New Delhi.Respondents/Respondents

Prayer: This Writ petition has been filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the Respondents to allot a seat to the petitioner for admission to MBBS Course in 2018-2019 session in any Govt Medical College or in any of the Self Finance Medical Colleges in Tamil Nadu under Priority III Clause for reservation of the wards of Military Personnel DIED WHILE IN SERVICE AND DEATH ATTRIBUTABLE TO MILITARY SERVICE as per Govt of India, Ministry of Defence Order No. F.No.6(1)2017/D(Res-11 dated 21.05.2018 read with G.O.NO.977 Health & Family Welfare passed by Govt of Tamil Nadu on 1.6.2008 and as prescribed in the Prospectus for MBBS Course in 2018-2019 session.

For Petitioner :Mr.M.Munian

For RR 1 to 3 :Mr.T.N.Rajagopalan,
Government Pleader
Assisted by Mrs.V.Annalakshmi,
Government Advocate.

For 4th Respondent :Mr.V.P.Raman

ORDER

This Writ Petition has been filed for issuance of Writ of Mandamus directing the Respondents to allot a seat to the petitioner for admission to MBBS Course in 2018-2019 session in any Govt Medical College or in any of the Self Finance Medical Colleges in Tamil Nadu under Priority III Clause for reservation of the wards of Military Personnel DIED WHILE IN SERVICE AND DEATH ATTRIBUTABLE TO MILITARY SERVICE as per Govt of India, Ministry of Defence Order No. F.No.6(1)2017/D(Res-11 dated 21.05.2018 read with G.O.NO.977 Health & Family Welfare passed by Govt of Tamil Nadu on 1.6.2008 and as prescribed in the Prospectus for MBBS Course in 2018-2019 session.

2. The petitioner has applied for MBBS\BDS courses during the academic year 2018-2019 under Children of Ex-Servicemen Category. The prospectus issued by the third respondent shows that the eligible candidates in Ex-Service Man category will be classified under based on priority as per G.O (D)No.977/H&FW Dept dated 01.6.2018. The petitioner has produced the eligibility certificate, dated 18.06.2018 and on perusal of the same would go to show that he comes under priority No.III - Wards of Defence Personnel, who died while in service, with death attributable to Military Service, which has been issued by the Deputy Director of Ex-Servicemen's Welfare, Madurai - 625 016 and the said certificate is counter signed by the Senior Record Officer, with an endorsement that the death of the petitioner's father, who was working as Army Educational Corps on 05.01.2004 was due to "Acute Respiratory Distress" which is declared as attributable to and aggravated by Military Service in Peace.

3. The mother of the petitioner has earlier filed a Writ Petition in W.P.No. 16148 of 2018 for issuance of a Writ of Mandamus directing the Respondents 1 to 3 to conduct counseling for Special category as mentioned in clause 36 of the prospectus issued by the third respondent therein for the MBBS/BDS Admission 2018-2019 by following priority basis and by strictly adhering to the orders passed in F.No. 6(1)/2017/D

(Res. II), dated 21.05.2018 by the Department of Ex-Service Men Welfare, Union Ministry of Defence and admit the petitioner Mothi Aniroudh on the basis of NEET marks scored by the petitioner for the first year M.B.B.S., without any discrimination for the academic year 2018-2019. In that Writ Petition, the learned Additional Government Pleader made the submission that the petitioner's son, being a ward of Ex-Service Man, would be considered on merits and in accordance with law.

4. In the counter affidavit filed by the first respondent, it is stated that the applications for admissions to MBBS\BDS courses in Government Medical Colleges and Government quota seats in Self Financing Colleges were invited from eligible candidates based on the prospectus/ Policy vide G.O.Ms. No. 210 Health and Family Welfare (MCA1) Department dated 04.06.2018. Since, the seats for Special Category of Children of Ex-Servicemen has been increased from 5 number of MBBS to 10 number of MBBS seats and one number of BDS seats and certain criteria was laid down to fix the priority for Ex-serviceman children in respect of admission to MBBS/BDS courses based on the letter from Government of India Lr.No. Vide G.O.No. 977/H & FW (MCA-1) Department.

5. It is the specific case of the first respondent that totally 501 applications have been received under Special Category of Ex-Servicemen and all the applications were scrutinized after comparing the documents received from the various District Ex-Servicemen Welfare Board, which was certified by the competent authority, who had been deputed from the Department of Ex-Servicemen's Welfare Board. After scrutiny, the authorities, who verified the certificates found that only 373 candidates were eligible as per the priority status recognized by the members of Ex-Servicemen Welfare Board.

6. It is stated by the first respondent that after the verification of the applications, the priority status has been identified and that, the merit list was prepared based on the categorization of eligible applicants with regard to their priority as per instructions. The first respondent has also produced the list of candidates, which is 11 in number, who were allotted under the category of wards of Ex-Servicemen before this Court. Out of which, only one candidate was recognised under priority No.II and three candidates were recognised under priority No.III and another candidate was recognised under priority No.4 and they were given allotment and one candidate was categorised under priority No.V, who was also given accommodation and five candidates were recognised under priority No.VI and they have obtained 314 marks and above in NEET examination. Hence, as per the list of candidates, who were allotted seats, the petitioner has no place if the petitioner's case were to be considered under the priority category No.VI.

7. The learned counsel for the petitioner however submitted that the respondents, on the basis of verification done by the Deputy Director of Ex-Servicemen Welfare Board, Madurai, have denied the admission to the petitioner. It is his further submission that the Deputy Director of Ex-Servicemen Welfare is not competent authority to issue any certificate. However, the petitioner himself has produced the eligibility certificate, dated 18.06.18 counter signed by the Senior Record Officer.

8. Learned Counsel for the petitioner has produced the original eligibility certificate dated 18.06.2018 before this Court issued by Deputy Director of Ex-Servicemen Welfare, Madurai. Unfortunately, the original certificate produced before this Court shows that the petitioner's claim was considered under priority No.VI. However, the document, which he has produced in the type-set of papers, is the eligibility certificate dated 18.06.2018 of Deputy Director of Ex-Servicemen Welfare, with a counter signature of Senior Record Officer with the endorsement to the effect that the death of the petitioner's father was declared as attributable to and aggravated by Military Service in peace. Therefore, the genuineness of the certificate produced by the petitioner is doubtful and the authenticity of endorsement is not explained.

9. Learned counsel for the petitioner relied upon the payslip submitted that the petitioner's mother is receiving special pension. Learned counsel for the petitioner produced a copy of the pension regulations, which was circulated by the Department of Ex-Servicemen Welfare. As per the regulations, it is stated that a special family pension is granted at the rate of 60% of emoluments last drawn by the deceased in case of death of the individual attributable to Military Service. From this, the learned counsel for the petitioner wanted this Court to draw an inference that the petitioner's wife has been given Special Family Pension by recognizing the death of her husband attributable to military service.

10. The learned counsel has further relied upon the endorsements made by the Senior Record Officer in the certificate. As stated by this Court, the eligibility certificate with an endorsement, which was counter signed by the Senior Record Officer, cannot be compared as the original certificate does not contain the endorsement or the counter signature. So, the xerox copy of the eligibility certificate has been counter signed and it has been produced by the learned counsel for the petitioner.

11. The leaned Government Pleader has produced the instruction for applicants applying for reserved defence seats

in Medical/Dental Colleges as Government of India Nominee under Ministry of Defence quota during the year 2018-2019 before this Court, in which clause No. (d) states that all cases of disability in r/o of defence personnel (Priority - III and Priority No.IV), which are due to reasons aggravated by military service (not attributable) are not eligible.

12. The learned counsel for the petitioner relied upon the certificate issued to the mother of petitioner by the Commercial Officer, in charge of record. As per the certificate, column No.8 relates to the date and place of death of petitioner's father; column No.9 relates to cause of death and column No.10, is whether the death is attributable to military service. The certificate that was available with the respondent show that column No.10 has been filled by the following words "aggravated to military service". However, the learned counsel for the petitioner has produced before this Court a similar certificate wherein the word "attributable to" is added by way of subsequent insertion, which was counter signed by an authority. The insertion was made on 01.07.18. Relying upon the same, the learned counsel for the petitioner states that the certificate has been properly amended by an officer who is a competent authority and therefore, it can be admitted.

13. The learned Government Pleader submitted that the correction was not done before closing the admission and the petitioner, who has obtained the endorsement after the allotment of seats on the first counseling, cannot rely upon the document for any purpose. The counter affidavit filed by the second respondent is relevant in this case, which runs as follows.

"It is submitted that Dependent Certificates for admission for MBBS-2018 was issued to Thiru.R.Mothi Aniroudh, S/o. Late No.9512172 X /Havildar/M.Ramesh on 12/06/2018 without any classification of priority. The G.O.(D) No.977 Health and Family Welfare (MCA-1) Department dated: 01.08.2018 was received by this Office on 18/06/2018 and subsequently communicated to the District Offices to issue Dependent certificate for MBBS/BDS education specifying the priority as per the above Government order vide letter no.PDL 23/2018/S4 dated : 18.06.2018. In the meanwhile the individual had also applied for an Eligibility Certificate for availing dependent of ex-servicemen quota seats under the control of Kendriya Sainik Board (Central Government). In order to become eligible for Priority III, death of serving soldier should have been

categorized Attributable to Military service, which was not so in the ibid case. Deputy Director of Ex-Servicemen's welfare, Madurai District issued Eligibility Certificate mentioning Priority No.VI(Children of Ex-Servicemen) Category. Since the cause of death was mentioned as 'Acute Respiratory Syndrome-Aggravated to Military Service' in the Service Particulars of the deceased soldier issued by the Record Officer, Army Education Corps, which was submitted by the applicant produced along with the application.

The counseling for special reservation category for children of ex-servicemen was conducted by the Selection Committee, Directorate of Medical Education on 01/07/2018.

It is submitted that the petitioner applied for the Dependent certificate for State Government quota of seats on 12/06/2018 and also applied for Eligibility certificate for Central Government quota of seats on 18/06/2018.

Both the certificates were issued under Priority - VI based on the Cause of Death recorded in the Service Particulars of the deceased soldier as 'Acute Respiratory Syndrome - Aggravated to Military Service'. The Eligibility certificate for Central Government quota of seats was countersigned by the Senior Record Officer, Army Educational Corps Records, Panchmarhi on 23/06/2018 making an endorsement that the death of No.9512172 X Hav Late Ramesh of Army Educational Corps on 05 Jan 2004 due to 'Acute Respiratory Distress' is declared as attributable and aggravated by Military Service in Peace. Eligibility Certificate issued under Priority No.VI(Children of Ex-Servicemen) by Deputy Director of Ex-servicemen's welfare, Madurai District was found to have been altered to Priority No.III (Widows/Wards of Defence Personnel who died while in Service and death attributable to Military Service without

the information of Deputy Director of Ex-Servicemen's Welfare, Madurai.''

14. It is also mentioned in the counter affidavit that the amended copy of the service particulars produced by the petitioner has also been taken with the Integrated Headquarters of Ministry of Defence, for verification as to the genuineness.

15. Having regard to the stand taken by the second respondent that the petitioner can be considered only under priority No.VI of children of Ex-Servicemen. The contention of the petitioner cannot be accepted. The petitioner has not satisfactorily convinced the Officials at the time of finalisation of the admission on or before 01.07.2018 about the status of petitioner and his eligibility to be considered under priority No.III. The admission to medical institution in this case was based on proper scrutiny of applications received under Ex-Servicemen quota.

16. As stated by the learned Government Pleader, the competent Officials, who were deputed by Ex-Service men welfare were in the committee and based on their recommendations, the applications were categorized. There is no record to show that the petitioner has produced any valid document to prove his category under priority No.III.

17. Under such circumstances, this Court is not inclined to entertain this Writ Petition. The Petitioner has secured only 159 marks. All the persons, who got admissions and allotments under priority VI, have secured more than 341 marks and hence, the petitioner's case cannot be entertained. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

सत्यमेव जयते

Sd/-
Assistant Registrar(CS IX)

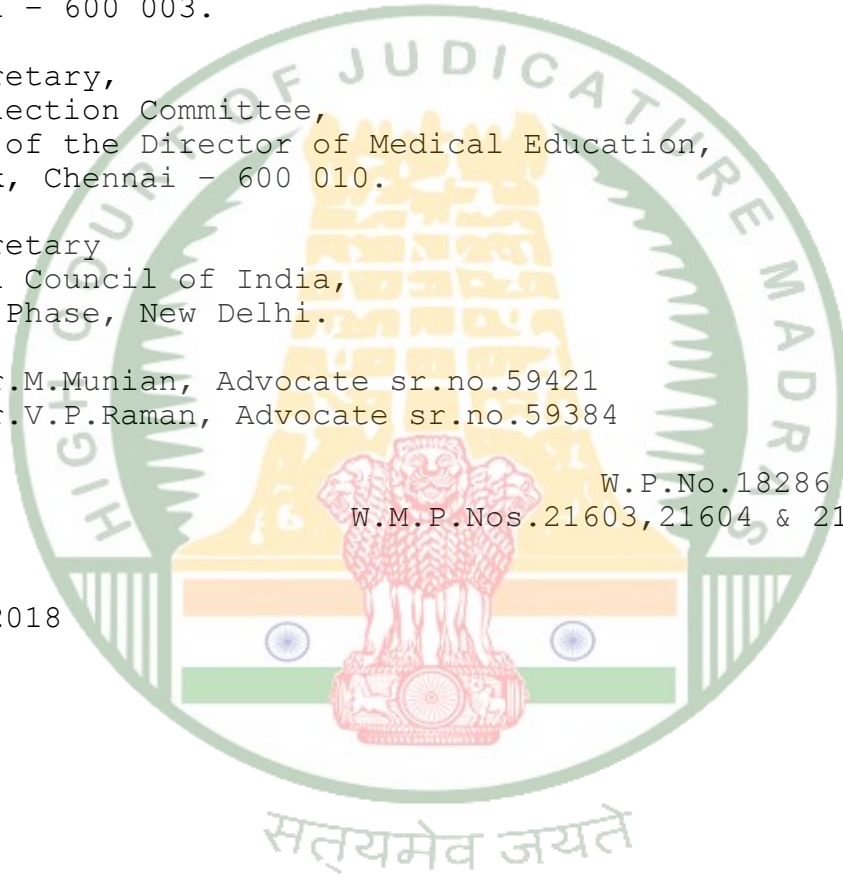
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Sub Assistant Registrar

tsg/vsg

To

- 1.The Secretary
State of Tamil Nadu,
Ministry of Health and Family Welfare,Dept.
Secretariat, Chennai - 600 009.
 - 2.Special Secretary to Government,
Public(Ex-Servicemen) Dept. and Ex-Officio Director,
Directorate of Ex-Servicemen's Welfare,
22, Raja Muthiah Salai, Choolai,
Chennai - 600 003.
 - 3.The Secretary,
The Selection Committee,
Office of the Director of Medical Education,
Kilpauk, Chennai - 600 010.
 - 4.The Secretary
Medical Council of India,
Dwarka Phase, New Delhi.
- +1cc to Mr.M.Munian, Advocate sr.no.59421
+1cc to Mr.V.P.Raman, Advocate sr.no.59384
- W.P.No.18286 of 2018 and
W.M.P.Nos.21603,21604 & 21605 of 2018
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