



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) .No.3579 of 2018

and

W.M.P. (MD) Nos.3715 and 3716 of 2018

P.Shirmila

...Petitioner

Vs.

1. The State of Tamil Nadu represented by
The Principal Secretary,
Health Department, Secretariat,
Fort St.George, Chennai-600 009.

2. The Chairman,
Medical Services Recruitment Board,
Chennai.

3. The Director Medical Education,
Directorate of Medical Education,
State of Tamil Nadu,
162, EVR Periyar Salai,
Keelpakkam, Chennai.

4. The Director of Medical and Rural Health Services,
Directorate of Rural and Health Services,
State of Tamil Nadu,
258, Second Floor, DMS Complex,
Anna Salai, Thenampettai, Chennai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in connection with the impugned notification 6/MEB/2016 dated 31.01.2016 issued by the second respondent and quash the same and consequently direct the respondents to issue fresh notification.

For Petitioner : Mr.K.P.Sankarakumarakuruparan

For R-1,3 and 4 : Mrs.S.Srimathy,
Special Government Pleader

For R-2 : Mr.T.S.Mohammed Mohideen
Standing Counsel

ORDER

Heard the learned counsel on either side.

2.The petitioner is holding Diploma in Pharmacy. She passed out in the year 1992. She registered her name with the Tamil Nadu Pharmacy Council in the year 1994. She is aggrieved by the impugned recruitment notification dated 31.01.2016, issued by the second respondent.

3.According to the petitioner, the impugned recruitment notification provides for weightage of marks in the following manner:-

Minimum educational qualification required for the post	Weightage of marks		
	Degree/Diploma/ Certificate	H.S.C./P.U.C	SSLC/10 th
a. Degree	50%	30%	20%
b. Diploma	50%	30%	20%
c. Certificate with PUC/HSC	50%	30%	20%
Qualification			
d.Certificate with SSLC	60%	NA	40%
e.Minimum general educational qualification	NA	NA	100%

(NA-Not Applicable)

4.According to the petitioner, the diploma mark alone should be taken into account. The petitioner is aged about 46 years. When she completed her 10th standard or 12th standard, it was difficult to score high marks. Therefore, according to the petitioner, it is inequitable to compare the marks scored by the petitioner with the marks now scored by the younger candidates.

5.This Court is unable to agree with the submissions of the learned counsel for the petitioner for reasons more than one. The impugned recruitment notification was issued more than two years ago. It is not known as to what the petitioner was doing all these months. The petition is therefore liable to be dismissed on three grounds:-



a.Firstly, on the ground of laches.

b.Secondly, the very same notification was questioned before the Principal Bench in a batch of Writ Petitions. The Hon'ble Division Bench in W.P.No.25786 of 2015 and W.P.No.5508 of 2016 and batch dated 06.11.2017, upheld the said notification and directed the Board to proceed further in the matter, by taking into account, the marks scored in the Diploma. It was clarified that the marks scored by the candidates in the Higher Secondary or PUC will not be taken into account. With this clarification, a direction was given for finalising the selection process. Now the selection process is at the stage of certificate verification. At this stage, the petitioner has approached this question, questioning the very same notification.

c.Thirdly, it is for the employer to prescribe the weightage of marks and it is not for the candidate to question the same, unless, any inherent unconstitutionality is made out. No such ground has been made out.

6.The learned Standing Counsel appearing for the second respondent also points out that the petitioner had admittedly scored only 39.45 marks. In the present case, the cut off mark is 52.69. Therefore, on the ground of *locus-standi* also this Writ Petition is liable to be dismissed. There is no merit in the Writ Petition.

7.The Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

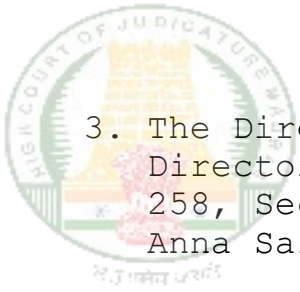
Assistant Registrar(Crl side)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Secretary,
Health Department, Secretariat,
Fort St.George, Chennai-600 009.
2. The Director Medical Education,
Directorate of Medical Education,
162, EVR Periyar Salai,
Keelpakkam, Chennai.



3. The Director of Medical and Rural Health Services,
Directorate of Rural and Health Services,
258, Second Floor, DMS Complex,
Anna Salai, Thenampettai, Chennai.

+ 1 cc TO Mr.T.S.Mohamed Mohidheen , Advocate in SR No. 50029
+ 1 cc TO The Special Government Pleader in SR No. 50776

tsg

AE/SV MMS/SAR1/15.05.2018/4P/6C

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