



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.06.2018

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THE HON'BLE MR.JUSTICE R.SURESH KUMARW.P. (MD) No.13747 of 2018
and WMP Nos.12481 and 12482 of 2018

Balamurugan

... Petitioner

-vs-

1. The Secretary to Government
Health and Family Welfare Department
Fort St. George, Chennai.
 2. The Chairman,
The Medical Service Recruitment Board,
7th Floor, DMS Building,
359 Anna Salai, Teynampet,
Chennai.
 3. The Director of Public Health and Preventive Medicine
DMS Buildings,
359 Anna Salai Teynampet,
Chennai.
 4. The Director of Medical Education,
Kilpauk, Chennai.
- .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records relating to the impugned list published by the 2nd respondent vide his proceedings Notification No.1/MRB/2016 dated 08.06.2018 (published in the internet on 09.06.2018) and quash the same as illegal.

For Petitioner : Mr.Mohammed Imran
for M/s.Ajmal Associates
For Respondents: Mrs.S.Srimathi
Special Government Pleader
Mr.T.S.Mohammed Mohideen
standing counsel for MSRB

**ORDER**

The prayer in the writ petition is for a Writ of Certiorari to call for the records relating to the impugned list published by the 2nd respondent vide his proceedings Notification No.1/MRB/2016 dated 08.06.2018 (published in the internet on 09.06.2018) and quash the same.

2. Heard the learned counsel for the petitioner, learned Special Government Pleader for the respondents 1, 3 and 4 and the learned standing counsel for the 2nd respondent.

3. The short facts, which are required to be noticed for the disposal of the writ petition are as follows:

The petitioner, after passing +2 in the year 1994, had joined in the course called "Lab Technician Course" and has completed the same successfully in the year 1995 and he registered the said qualification with the District Employment Office, Sivagangai for appointment to the post of Lab Technician Grade I.

3.1. The said Lab Technician course is presently known as Certificate of Medical Lab Technician (in short CMLT). While so, the second respondent, on 10.01.2016 issued a notification inviting applications from the eligible candidates for appointment to the post of Lab Technician Grade III. The selection process was only through the marks secured by the candidates in their academic and technical qualifications. Based on the qualifications they acquired, like, SSLC, HSC/PUC and CMLT, weightage marks would be given to them. Accordingly, 20% of the marks as weightage marks would be given to SSLC qualification, like that, for HSC/PUC 30% weightage and 50% weightage would be given for CMLT qualification. Altogether the maximum weightage marks would be 100.

3.2. When this was the position during the earlier recruitment made by the second respondent, this year, the very same second respondent has issued the present notification in Notification No.1/MRB/2016 dated 08.06.2018. As per the said notification, the candidates, who are eligible to apply for the post of Lab Technician had been called for making applications through online. Pursuant to the said notification, the petitioner also had made application through online, where the petitioner's qualification such as SSLC, HSC and CMLT had been mentioned. Like the petitioner, all other applicants had made such applications by giving the qualifications in the application itself.

3.3. Pursuant to the said application filed by the number of candidates, the second respondent has issued the list of candidates called for certificate verification, which would be conducted from 27.06.2018 till 06.07.2018. Approximately, 1200 candidates were called for certificate verification on various



dates from 27.06.2018 to 06.07.2018.

3.4. On verifying the list of candidates called for certificate verification, the petitioner found that, the petitioner's name was not in the list as one of the candidates called for certificate verification.

3.5. When the petitioner enquired about the absence of the petitioner's name in the list of candidates called for certificate verification, he came to understand that, even though the system of weightage marks were adopted for qualifications, such as SSLC, HSC as well as CMLT, the second respondent, instead of giving weightage marks to CMLT with 50 marks maximum, had chosen to give only weightage marks for 10th standard and +2 marks and based on which alone, the weightage marks were given for the maximum of 50 instead of 100. Out of the 50 marks, based on the marks obtained by the petitioner, both in 10th standard and +2, he was awarded only 25.02 marks. In this regard, it is the claim of the petitioner that, based on the cut off marks fixed for BC quota, the petitioner did not reach the zone of consideration and accordingly, his name had not been included in the list of candidates called for certificate verification.

3.6. According to the petitioner, it is the discrepancy on the part of the second respondent, who released the first list of candidates for certificate verification, because, firstly, as per the notification, the weightage marks ought to have been given to CMLT candidates also.

3.7. Secondly, in respect of some of the candidates, who had been called for certificate verification, they had been awarded 50/50 marks, which means those candidates presumed to have obtained centum in all subjects, both in 10th standard and +2. In other words, if a candidate secured 500/500 in 10th standard and 1200/1200 in 12th standard alone could have been awarded 50/50 marks as weightage marks and this kind of 50/50 have been given to atleast more than 20 candidates, whose names are found in the list and therefore, in this regard, the petitioner's apprehension is that, something went wrong somewhere, as there could have been no scope of giving such centum marks for this many candidates for both 10th standard as well as +2 and therefore, based on such claim, which probably would be a false claim, those candidates have been wrongly included in the list and therefore, the entire list of candidates fit for calling for certificate verification, is improper and therefore, challenging the said impugned list of candidates, the present writ petition has been filed.

4. I have heard the learned counsel for the petitioner, who <https://www.courts.madras.gov.in/courtservices>, since the petitioner obtained only 25.02 marks, based on the 10th and +2, his name was not included and in this regard, the necessary clause, where the method of selection

prescribed by the second respondent, has been violated.

5. The learned counsel would further submit that, since a number of candidates, as set out above were awarded 50/50, as if they got centum in both 10th and +2, the entire ranking list prepared for the purpose of certificate verification by the second respondent through the impugned list is vitiated and therefore, the entire impugned list has to be set aside.

6. I have heard the learned standing counsel for the second respondent, who has produced written instructions received from the second respondent ie., Member Secretary, Medical Services Recruitment Board, dated 26.06.2018, which reads thus:

"Medical Services Recruitment Board (MRB)
Position Note on Recruitment to the post of Lab
Technician Grade -III

- The Medical Services Recruitment Board has published Notification No.1/MRB/2016 dated 10.01.2016 to invite online applications for the selection of candidates for the post of Lab Technician Grade - III in Tamil Nadu Public Health Subordinate Service. (Vacancy notified 710)
 - As per G.O.(Ms)No.401, Health and Family Welfare (C2) Department dated 16.12.2014, the candidates are selected by giving weightage marks to their academic performance duly following rules of reservation and communal rotation. Subsequently certain guidelines has been incorporated by amendment issued in G.O.(Ms) No.331, Health and Family Welfare (C2) Department dated 05.11.2015.
 - As per the Special Rules for the post of Lab.Technician Grade - III in Tamil Nadu Public Health Subordinate Service, the candidates must possess Certificate in Medical Lab Technology Course (one year duration) undergone in any institution recognized by the Director of Medical Education.
 - In the meantime, one Thiru.M.Sundaravarman has filed W.P.No.8031 of 2016 in the Hon'ble High Court of Madras challenging the guidelines laid down in G.O.(Ms) No.331, Health and Family Welfare (C2) Department dated 05.11.2015 regarding the method of awarding weightage marks in arriving merit list. The Hon'ble High Court of Madras on hearing various writ petitions as a batch cases in W.P.No.8031 of 2016, W.P.No.25786 of 2015 etc. filed against the G.O.(Ms) No.401 Health and Family Welfare (C2) Department dated 16.12.2014
- https://hcservices.ecourts.gov.in/ https://hcservices.ecourts.gov.in/ G.O.(Ms) No.331, Health and Family Welfare (C2) Department dated 05.11.2015 delivered judgment on 06.11.2017 as follows:



"It is for the respondents to give effect to the weightage system to select the candidates in accordance with the law and the Medical Services Recruitment Board is directed to obtain the marks of the candidates from the Director of Medical Education/King's Institute/Any other Institute, wherever it is available and proceed with the selection on merits and in accordance with the law."

The Special Leave Petition filed by T.Murugesan and others before the Hon'ble Supreme Court of India, New Delhi against the above orders of the Hon'ble Madras High Court was also dismissed on 22.12.2017.

- The Director of Medical Education in his letter No.77574/PME/3/2017 dated 10.05.2018 has informed that no marks awarded for certificate of Laboratory Technician Course prior to the year 1997. In the circumstances reported by the Director of Medical Education and as per the rules of procedure laid down in G.O.(Ms) No.331, Health and Family Welfare (C2) Department dated 05.11.2015, the weightage has been restricted to the marks obtained by the candidates in SSLC (20%) and HSC (30%) uniformly to all the applied candidates. Based on the above method only the merit list and communal roster has been drawn. Out of 4109 candidates with certificate in Medical Laboratory Technician qualification as furnished in their online application 24 candidates have furnished the same marks for Total Maximum marks as well as Total Marks obtained by the candidates while submitting online application and its veracity could be ascertained only at the time of Certificate Verification and their eligibility would be decided only after that.
- It is humbly submitted that the Board has scheduled the First phase of Certificate Verification for 1200 candidates from 27.06.2018 to 29.06.2018 and from 02.07.2018 to 06.07.2018 based on the marks furnished by the candidates in their online application. It is further informed that if the required number of suitable candidates (ie 710+10% reserve) are not available in the first phase of Certificate Verification, the board will conduct certificate verification till suitable candidates as per the eligibility criteria are arrived at.
- It is further submitted that the petitioner Thiru.S.Balamurugan has secured weightage marks of 25 out of 50 and he belongs to Backward Class (BC) community. The last (BC-General) candidate, who was called for certificate verification has



secured the weightage marks of 32.77 out of 50.

- The above facts may be appraised before the Hon'ble High Court to dismiss the above Writ Petition."

7. By relying upon the said instructions, the learned standing counsel for the second respondent would submit that, under the notification under clause 7 with the Heading "Procedure for Selection", no doubt, the method of awarding weightage marks have been provided for the qualification, such as SSLC, HSC and CMLT. However, in the said clause itself, we have appended a note, whereby, it is specifically stated that, in case, if marks are not awarded by any batch of the CMLT course, the selection for all will be based on the marks secured by the applicants in SSLC/HSC/PUC examinations only. In this regard, for better appreciation, the relevant clause of the notification is extracted hereunder:

"7.Procedure of Selection:

7a.Selection will be made based on the marks scored by the candidates in their academic and technical qualification(s) for the post of Lab Technician Grade III duly following the rules of reservation and communal rotation issued by the Government of Tamil Nadu. There will be no oral test (Interview) for the post.

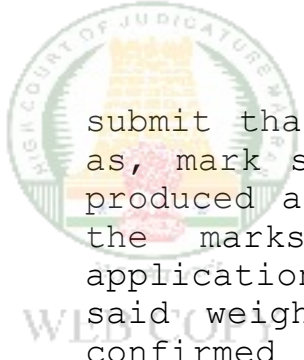
Minimum educational qualification required for the post	Weightage for marks		
	Certificate (CMLT-One year)	HSC/PUC	SSLC/10 th
a. Certificate in Medical Lab Technology Course (One year) with PUC/HSC qualification	50%	30%	20%

Note: In case marks are not specifically awarded for any batch of the CMLT (one year) course, then selection for all will be based on the marks scored by the applicants in SSLC and HSC/PUC examinations only."

8. The learned standing counsel would further submit that with regard to the candidates, who have been awarded full marks as 50/50, are concerned, 24 such candidates are found in the list for whom 50/50 marks have been awarded. This 50 weightage marks are awarded by the second respondent not based on the mark statement produced by those candidates, however, it is merely on the basis of the claim those candidates made in their respective application submitted through online.

<https://hcservices.ecourts.gov.in/hcservices/>

9. In this regard, the learned standing counsel would further



submit that, except online applications, no other documents, such as, mark statements and other qualifications were required to be produced along with online applications. Therefore, only based on the marks, which were filled by every candidate in the applications concerned, such weightage marks were awarded and the said weightage marks only be tentative and the same would be confirmed after verification of the original certificates of the mark statement to be produced by the candidates at that time of certificate verification.

10. After having heard the learned standing counsel for the second respondent, this Court has raised a pointed query that if the 24 candidates, for whom, entire 50 marks by way of weightage marks have been awarded and based on which, if those candidates were called for counselling and ultimately, if the second respondent found, on certificate verification, that the claim made by those candidates or some of the candidates are wrong, certainly, the weightage marks already awarded, even though tentatively, would be reduced accordingly. However, the certificate verification is being done only for 1200 above candidates out of 4200 applicants, who made such applications pursuant to the notification of the second respondent.

11. Ultimately, if the second respondent, on certificate verification, found some of the candidates or majority or considerable number of candidates, who made a claim through online applications with regard to percentage of marks, to be false or mistaken, then, it will have an impact on the very ranking given by the second respondent to candidates based on their marks on communal rotation for the purpose of certificate verification itself. In that case, the candidates, who got real marks and by virtue of their proper claim made through the online application would have been left even for certificate verification. Therefore, that would prejudice the interest of some of the candidates and therefore, the said procedure adopted by the second respondent, whether, would be justifiable?.

12. In response to the said pointed query raised by this Court, the learned standing counsel for the second respondent, after having obtained immediate instructions from the second respondent (Chairman of the second respondent Board), has produced the following instructions: (through soft copy):

"Dear Sir,

We may submit that all those who have applied with CMLT qualifications will be called for certificate verification and after that results will be published may be read as "after that selection list will be published as per merit and communal rotation with candidates fulfilling eligibility criteria in the notification." right now 1200 candidates were called for certificate verification, remaining 2909 applicants



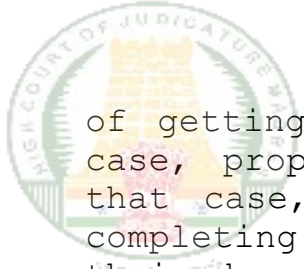
will be called for certificate verification, after completion of 1200 in the phase 1. (after that the results of selection will be published)"

13. After submitting the said instructions instantly given by the Chairman of the second respondent, through Whatsapp communication, which has been produced before this Court by the learned standing counsel, he would submit that, in order to set right the discrepancies now found, as weightage marks have been awarded based on the claim made by the respective candidate through online application, where some of the candidates had claimed centum in both 10th and +2 and with the result, 50 weightage marks out of 50 had been given to them, the second respondent, now decided to call entire eligible applicants, who are (1200+2909) 4109 applicants including 1200, who have been already called for certificate verification through the impugned list. Therefore, the entire 4109 applicants would be called for certificate verification in phased manner and after completing the initial 1200 and based on certificate verification of each of such candidates, out of 4109 applicants, the final selection list would be prepared by applying the communal rotation and the same would be published.

14. The learned standing counsel would further submit that, after the entire applicants were called for certificate verification and after verifying the certificates pertaining to their educational qualifications, their claim made through the online applications would be verified and accordingly correct weightage marks would be given to each of the candidates and only based on such corrected marks to be given to the eligible candidates, final selection list would be made and if such final selection list is made, there may not be any grievance for any one of the candidates, including the petitioner, as no CMLT weightage marks is given to any candidate and weightage marks of candidates is given only in respect of qualification of 10th/+2/PUC alone.

15. Considering the said submissions made by the learned standing counsel for the second respondent and also the instructions instantly given today by the Chairman of the second respondent Board, which has been passed on to this Court through the Whatsapp message received by the learned standing counsel, this Court is of the view that, the doubt/apprehension of the petitioner has now been cleared by virtue of the clear cut decision taken by the second respondent Board, as reflected in the latest instructions given by the Chairman of the MRB, as extracted hereinabove.

16. Once all the 4109 candidates are called for certificate verification and after verifying the certificates of each of the candidate, if weightage marks are awarded, then the petitioner cannot have any grievance, as he has to compete with others by way



of getting weightage marks only for 10th and +2/PUC and in that case, proper evaluation of merit would be made possible and in that case, final results of selection, if it is issued, after completing this exercise, every meritorious candidate will get their due marks and accordingly, the selection would be finalised.

17. Therefore, by recording the said submissions, made by the learned counsel for the second respondent through their Chairman, as submitted by the learned standing counsel for the second respondent, on record, this Court is inclined to dispose of this writ petition. Accordingly, this writ petition is disposed of, as no further order is required to be passed. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-I)

To:

1. The Secretary to Government of Tamil Nadu,
Health and Family Welfare Department
Fort St. George, Chennai.
 2. The Chairman,
Medical Service Recruitment Board,
7th Floor, DMS Building,
359, Anna Salai,
Teynampet, Chennai.
 3. The Director of Public Health and Preventive Medicine
DMS Buildings, 359, Anna Salai,
Teynampet, Chennai.
 4. The Director of Medical Education,
Kilpauk, Chennai.
- + 1 CC TO M/s.AJMAL ASSOCIATES, ADVOCATE IN SR No. 70261
+ 1 CC TO Mr.T.S.MOHAMED MOHIDEEN, ADVOCATE IN SR No. 70157
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 70355

RR

TE/RP/SAR-1 : 02/08/2018 : 9P/8C

W.P. (MD) No.13747 of 2018
and WMP Nos.12481 and 12482 of 2018
27.06.2018