



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 02.08.2018

CORAM:

THE HON'BLE MR.JUSTICE R.SURESH KUMAR
W.P.(MD)No.17140 of 2018

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... Petitioner

Vs

1) The Director of Medical Education,
No.162, E.V.R.Periyar Salai,
Kilpauk, Chennai 600 010

2) The Dean,
Tirunelveli Medical college,
Tirunelveli.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 2nd respondent to consider the representation of the petitioner dated 06.07.2018 and appoint him in any one of the existing basic services including (1) Office Assistant (16 vacancies), (2) Cook, (3) Cook Matty, (4) Lab Peon, within the time stipulated by this Court.

For Petitioner : Mr.K.Gokul

For Respondents : Mr.K.Saravanan,
Government Advocate.

O R D E R

The prayer sought for in this Writ Petition is for a Writ of Mandamus directing the 2nd respondent to consider the representation of the petitioner dated 06.07.2018 and appoint him in any one of the existing basic services including (1) Office Assistant (16 vacancies), (2) Cook, (3) Cook Matty, (4) Lab Peon, within the time stipulated by this Court.

2. Heard Mr.K.Gokul, learned counsel appearing for the petitioner and Mr.K.Saravanan, learned Government Advocate appearing for the respondents.

3. Learned counsel appearing for the petitioner would submit that, the petitioner has been working as Hospital Worker at the respondent's Department for some time and thereafter, he has been ousted. As against such action, it seems that, the petitioner approached the Labour Court seeking to re-initiate the petitioner with continuity of service along with other benefits, which initially went in favour of the petitioner and subsequently, the respondents by filing a writ petition before this Court, reversed the said decision. The learned Judge of this Court has made the following observations in W.P.(MD) No.24975 of 2016, dated 19.03.2018:

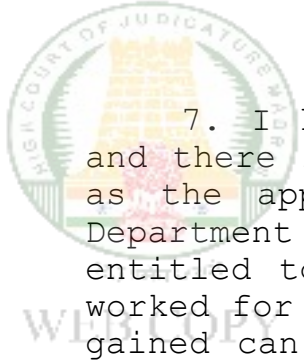


"5. Therefore, the awards impugned in the writ petitions are set aside. The writ petitions stand allowed. At this stage, the learned counsel for the employee concerned submitted that the employees are still working as ondate. The prayer in the I.D is for reinstatement. There is a reference to termination made in the year 2012. Therefore, this Court is not in a position to accept straightaway the claim made by the learned counsel appearing for the employees. But then if the employees are still working as on date, they need not be ousted from service till the regular recruitment is conducted. It is made clear that as and when the regular recruitment process takes place, the private respondents herein would also be entitled to be participated in the said selection process. Since they have already been working that too since 2004, the necessary age relaxation would have to be given. The exhibits marked in this proceeding clearly indicates that the Government wanted service certificate to be issued in their favour. Therefore, additional weightage will have to be given to the claims of the private respondents herein."

4. In the said circumstances, now, the first respondent has issued a communication on 30.04.2018, whereby, he has directed the second respondent to take the selection process for appointment to the post of Driver, Cook, Cook-cum-waterman, Cook Assistant, Cook Matty, Barber, Dhoby, Syce and Lab Peon.

5. In view of the observations made by this Court in the earlier order referred above, since some weightage has to be given to this petitioner, as he has worked already in the respondent Department for some years, the apprehension of the petitioner is that, without giving any weightage, if the selection process is completed, the petitioner may not get a chance of getting appointment and therefore, in this regard, he has made a representation on 06.07.2018. Therefore, the learned counsel appearing for the petitioner would submit that, if the said representation dated 06.07.2018 is directed to be considered and an order to that effect is directed to be passed by the respondents, the petitioner would be satisfied.

6. I have heard Mr.K.Saravanan, learned Government Advocate appearing for the respondents, who would submit that, during the selection process certainly, weightage will be given to the petitioner, who has already been working for some time in the respondent Department. Moreover, already an order has been passed by this Court and in the said order, an observation has been made by the learned Judge to give weightage to the already worked persons, like the petitioner.



7. I have considered the said submissions made by both sides and there is no right for the petitioner to seek for appointment, as the appointment is going to be undertaken by the respondent Department is a public employment, where all eligible candidates are entitled to participate. However, since the petitioner has already worked for some time at the respondent Department, the experience he gained can be given weightage and only in that sense, the learned Judge would have made the above said observation and now, the learned Government Advocate would submit that, the said observations would be taken into account while making the selection process for the purpose of giving weightage to the candidature of the petitioner.

8. In that view of the matter, this Court is inclined to pass the following orders:

"(i)that the respondents, especially, the second respondent while making selection, pursuant to the communication issued by the first respondent dated 30.04.2018, for various posts like drivers, Cook, Cook-cum-waterman, Cook Assistant, Cook Matty, Barber, Dhoby, Syce and Lab Peon...etc;

(ii) The petitioner's candidature also can be considered by giving due weightage to the experience, which he has gained already from the very same respondent Department, where he already worked for some years; and

(iii) Subsequently, by giving weightage to the petitioner, the selection process can be completed by the respondents, especially, by the second respondent within a period of six weeks from the date of receipt of a copy of this order."

9. With this direction, this Writ Petition is disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-I)

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To

1) The Director of Medical Education,
No.162, E.V.R.Periyar Salai,

<https://hcservices.ecourts.gov.in/hcservices/>
Kilpauk, Chennai 600 010



2) The Dean,
Tirunelveli Medical college,
Tirunelveli.

+ 1 CC TO Mr.K.GOKUL , ADVOCATE IN SR No. 76466.

+1 cc to Special Government Pleader, SR.No.76986.

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Order made in
W.P. (MD) No.17140 of 2018