

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.10610 of 2010
and M.P.No.1 of 2010

R. Ramyapriya

..Petitioner

Vs

1.The Principal Secretary to Government,
Health and Family Welfare Department,
Fort Saint George,
Chennai-600 009.

2.The Director of Public Health and
Preventive Medicine,
No.359, Anna Salai, Chennai -600 006.

3.The Director of Medical and Rural Health Services,
Chennai - 600 006.

4.The Director of Medical Education,
Chennai - 600 010.

..Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents 2 to 4 to consider the petitioner for appointment to the post of Pharmacist in the light of G.O.Ms.No.2112, Health and Family Welfare Department dated 12.09.1972 for the existing vacancies.

For Petitioner : Mr.V. Chandrasekaran

For Respondents : Mr.A. Ansar
Government Advocate

ORDER

This writ petition has been filed by the petitioner seeking a direction directing the respondents 2 to 4 to consider the petitioner's appointment to the post of Pharmacist, in the light of G.O.Ms.No.2112, Health and Family Welfare Department, dated 12.09.1972 for the existing vacancies.

2. The writ petitioner had completed Diploma Course in Pharmacy at Thanjavur Medical College, Thanjavur and obtained Diploma Certificate from the Board of Pharmacy under the control of Directorate of Medical Education on 26.11.1999. After completion of the course, her name was registered with the Tamil Nadu Pharmacy Council, Chennai. Thereafter, she got registered herself with the District Employment Exchange, Tiruvarur. It is submitted that an advertisement was published in the newspaper "Dinakaran" dated 11.03.2010 indicating the vacancies to the post of Pharmacists and Nursing Assistants, which are to be filled up through Employment Exchange and the eligible candidates were instructed to verify and check with their respective Employment Exchanges in respect of the correctness of their details. It is submitted that G.O.Ms.No.2112, Health and Family Welfare Department dated 12.09.1972 was introduced with the object of utilizing the services of those candidates who have been paid stipend by the Government while doing the course on priority basis. However, the appointing authorities continue to make selection without strict adherence to the Government Order for obvious reasons, which had resulted in denial of employment to the petitioner for more than ten years. In other words, the Employment Exchange was omitted to have been instructed on strict adherence of G.O.Ms.No.2112, Health and Family Welfare Department dated 12.09.1972 while sponsoring the names. Thereafter, the petitioner made a representation dated 15.03.2010 to the respondents to the effect that the petitioner is entitled for consideration for appointment to the post of Pharmacist in the light of G.O.Ms.No.2112 Health and Family Welfare Department, dated 12.09.1972, but the respondents had failed to take steps on the petitioner's representation dated 15.03.2010. Hence, the petitioner has come forward with the present writ petition for the relief stated supra.

3. In response, counter affidavit had been filed on behalf of the respondents stating that certain non-stipendiary candidates have filed O.A.No.1249 of 1993 and O.A.No.5465 of 1996 to quash the orders issued in G.O.Ms.No.2112, Health and Family Welfare Department, dated 12.09.1972. The Government has decided to dispense with the procedure of giving preference to stipendiary candidates over non-stipendiary candidates in the matter of appointment to the posts of Pharmacists as was done in the case of appointment to the post of Nurses and issued order vide Government Letter No.62625/C1/1996-10, dated 28.04.1998. Further, in Government Letter No.50951/C1/2000-1, Health and Family Welfare Department, dated 01.11.2000, the Government has reiterated to follow the above procedure in filling up of the post of Pharmacist through Employment Exchange. He would further submit that with reference to the averments made in the paragraph Nos.6 to 13 of the affidavit filed in support of the writ petition, it is submitted that in G.O.(Ms)No.328, Health and Family Welfare Department dated 08.10.2009, orders were

issued to the effect that all the existing and future vacancies in the post of Pharmacist in the Government Primary Health Centres/Hospitals/Medical College Hospitals and Employee's State Insurance Dispensaries in the State should be filled up by following State-wide Employment Exchange seniority, subject to fulfilment of the other Rules in force. It is further submitted that the order issued in G.O.(Ms) No.2112, Health and Family Welfare Department dated 12.09.1972, giving preference to stipendiary candidates for appointment to the post of Pharmacist, had been withdrawn as early as in the year 1998.

4. Heard both sides and perused the materials available on record.

5. In as much as the Government had withdrawn the procedures already mentioned in G.O.(Ms)No.2112, Health and Family Welfare Department dated 12.09.1972, which is evident from the counter affidavit and subsequently, the Government issued proceedings, vide Government Letter No.62625/C1/1996-10, dated 28.04.1998 and Government Letter No.50951/C1/2000-1, Health and Family Welfare Department, dated 01.11.2000, whereby the Government had reiterated to follow the above discussed procedure in filling up of the post of Pharmacist through Employment Exchange.

6. Hence, the petitioner's representation is not warranted and the prayer made in the Writ Petition cannot be acceded to. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-VIII)

//True copy//

सत्यमेव जयते
Sub Assistant Registrar

msm

To

1.The Principal Secretary to Government,
Health and Family Welfare Department,
Fort Saint George,
Chennai-600 009.

2.The Director of Public Health and
Preventive Medicine,
No.359, Anna Salai, Chennai -600 006.

3.The Director of Medical and Rural Health Services,
Chennai - 600 006.

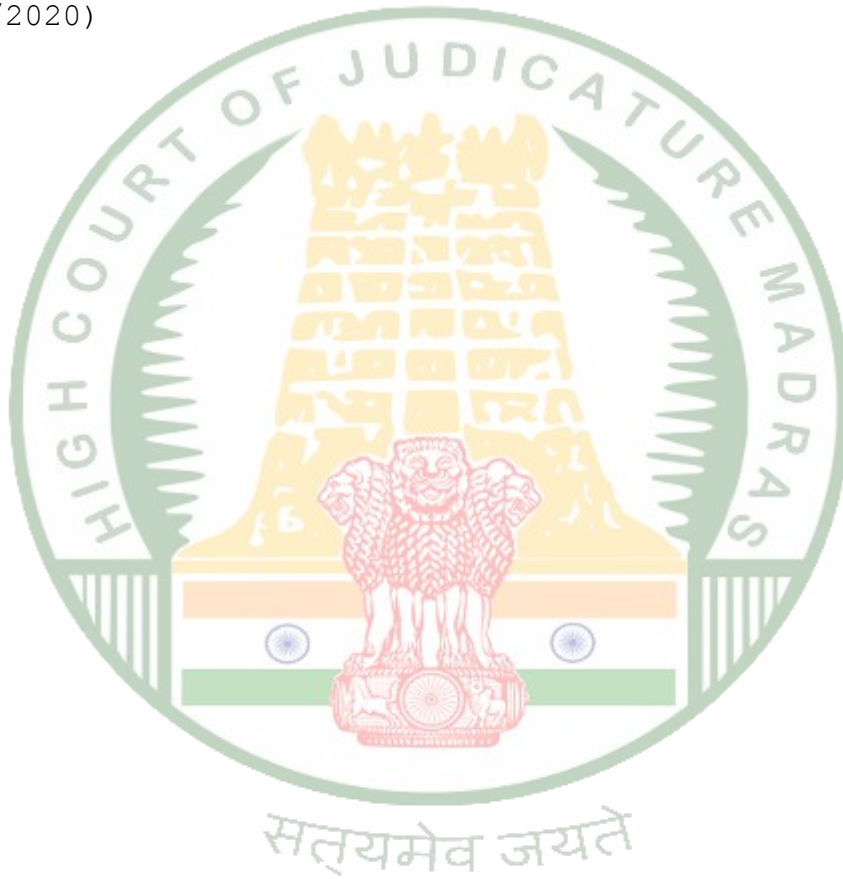
4.The Director of Medical Education,
Chennai - 600 010.

+1cc to Mr.V. Chandrasekaran, Advocate SR.No.88570

+1cc to Government Pleader SR.No.88718

W.P.No.10610 of 2010

PVS (CO)
GMY (03/02/2020)



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