

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.28119 of 2008 and

M.P.No.1 of 2008

M.Pushpa Bensihar

... Petitioner

Vs

1. The Director,
Public Health and Preventive Medicine,
DMS Complex,
Teynampet,
Chennai-600 006.

2. The State of Tami Nadu
rep. by its Secretary to Government,
Health and Family Welfare Department,
Fort St. George, Chennai-9.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents from appointing contractual employees working as Lab Technicians under the Revised National Tuberculosis Control Programme to the newly arisen 337 permanent posts of Lab Technician Grade III and consequently, direct the respondents to appoint the petitioner to the said post of Lab Technician Grade III.

For Petitioner : Ms.C.Uma

For Respondents : Mr.K.Ravi Kumar, AGP
1 and 2

O R D E R

This Writ Petition has been filed seeking to issue a Writ of Mandamus, forbearing the respondents from appointing contractual employees working as Lab Technicians under the Revised National Tuberculosis Control Programme to the newly arisen 337 permanent posts of Lab Technician Grade III with a consequential direction, directing the respondents to appoint the petitioner to the said post of Lab Technician Grade III.

2. Heard the learned Counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents.

3. Now the post of Lab Technicians have been filled up by way of direct recruitment inviting application from

the eligible candidates all over the State of Tamil Nadu. On the other hand, the petitioner has claimed appointment on the basis of sole seniority maintained in the Employment Exchange, Chennai. That apart, since the petitioner is over aged as she has crossed over and above 40 years, on the ground of age criteria also, she stands disqualified for the post of Lab Technician. Therefore, in view of the subsequent developments, the prayer in the Writ Petition cannot be maintained.

4. At this stage, the learned Additional Government Pleader appearing for the respondents taking written instructions stated that the petitioner was given opportunity to apply for the recruitment made by Medical Services Recruitment Board, but she failed to reach the eligibility condition. Therefore, she cannot be considered prior to the filing of the writ petition.

5. However, this Court is of the view that since the mode of selection to the post of Lab Technician has completely changed and the said posts are all being filled up only by considering the candidates by holding written examination followed by interview, therefore, the request of the petitioner to consider her as Lab Technician on the basis of the seniority in the District Employment Exchange, Chennai is wholly misconceived and as such, the petitioner cannot maintain the present Writ Petition seeking Mandamus. That apart, the writ petition cannot be maintained after a lapse of 10 years. Hence, I find no merit in the Writ Petition.

6. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

tsi
To

1. The Director,
Public Health and Preventive Medicine,
DMS Complex,
Teynampet,
Chennai-600 006.

2.The Secretary to Government,
State of Tami Nadu,
Health and Family Welfare Department,
Fort St. George, Chennai-9.

+1cc to Ms.C.Uma, Advocate SR.No. 24040
+1 cc to Government Pleader SR.NO. 25738

W.P.No.28119 of 2008

A.SK(01/05/2019)



WEB COPY