

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2019

CORUM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and

THE HONOURABLE MS.JUSTICE P.T.ASHA

Writ Appeal No.1442 of 2019
and
C.M.P.Nos.9901 & 9902 of 2019

Dr.Aishwarya Devi S, BDS

...Appellant/Petitioner

Vs.

1. The Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Fort St.George,
Chennai - 600 009.
2. The Managing Director,
National Health Mission, Tamil Nadu,
5th Floor, TNHSP Building,
DMS annexe Building, DMS Campus,
359, Anna Salai, Teynampet,
Chennai, Tamilnadu - 600 006.
3. The District Collector,
Kanchipuram,
Collectorate,
Kancheepuram - 631 501.
4. The Deputy Director of Health Services,
District Health Society Kanchipuram,
42-A, Railway Road,
Arignar Anna Memorial Cancer Institute
Campus,
Kanchipuram - 631 501
5. The Directorate of Medical
Rural Health Services,
No.359, Anna Salai,
Teynampet, Chennai,
Tamil Nadu - 600 006.

6. The Director of Public Health
and Preventive Medicine,
Directorate of Public Health
and Preventive Medicine,
No.64/75, Main Road, Chokkalingam Nagar,
Teynampet,
Chennai, Tamilnadu- 600 086 ... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 08.03.2019 made in W.P.No.32752 of 2018 passed by the learned single Judge of this Court.

WP No. 32752 of 2018 : Writ Petition filed under Article 226 of the constitution of India praying to issue a writ of mandamus, directing the respondents to consider the representation of the petitioner dated 8.10.2018 made to the respondents and complete the selection process for the post of Dental Surgeon in pursuance of notification issued by the Deputy Director of Health Services Thiruvannamalai via Na. Ka. No. 6393/Aa3/2009 dated 26.10.2017 and appoint the petitioner if found qualified.

For Appellant : Ms.Varsha Naveen Kumar Murthi

For Respondents: Mrs.A.Sri Jeyanthi,
Special Government Pleader.

J U D G M E N T

(Judgment of the Court was delivered by P.T.ASHA, J.)

The writ petition filed by the appellant for a direction to the State to complete the selection process for appointment to the post of Dental Surgeon, pursuant to the notification dated 26.10.2017, was dismissed by the learned single Judge, with an observation that appointment is not a matter of right. The said order is under challenge by the unsuccessful writ petitioner.

2. The Director, National Health Mission, Tamilnadu, vide proceedings dated 03.07.2017 had sanctioned 55 Dental Units in the Primary Health Centres under the National Health Mission across various Districts in the State of Tamilnadu. The Deputy Director of Health Services, Kanchipuram District, pursuant to the decision taken by the Director, National Health Mission, Tamilnadu, invited applications for appointment to the post of Dental Surgeon on contract basis. The process was undertaken for

filling up six vacant posts in the Government General Hospital, Wallajah and five Primary Health Centres. A notification was issued on 26.09.2017.

3. The appellant appeared before the Selection Committee pursuant to the call letter issued by the Deputy Director of Health Services, Kanchipuram. The appellant was interviewed by the Committee. Since there was no further action taken for appointment, the appellant obtained information invoking the provision of Right to Information Act. She was informed that by following communal reservation, fresh notification will be issued. The appellant, in response to the notification dated 26.10.2017, once again submitted application for appointment as Dental Surgeon in the District of Tiruvannamalai. The selection process was discontinued taking into account, the decision taken by the State Mission to the effect that henceforth it should be on State basis instead of taking the District as the Unit. The appellant, therefore, filed a Writ Petition for appropriate direction for appointment taking into account, the application submitted by her pursuant to the notification.

4. Since the appellant participated in the selection twice and she would be over aged very shortly, we directed the learned Special Government Pleader to take instruction as to whether the Health Department is in the process of issuing fresh notification for appointment to the post of Dental Surgeon.

5. The communication sent by the Director of Medical and Rural Health Services dated 14.06.2019 indicates that the Government, by order in G.O.Ms.No.277, Health and Family Welfare Department dated 13.06.2019, has constituted a Committee for evolving modalities for recruitment to the post of Dental Surgeon. According to the Director of Medical and Rural Health Service, the initial appointment would be on contract basis and the publication would be made in two newspapers, out of which, one would be in vernacular language.

6. Since the respondents have initiated action for appointment, we are of the view that there is no need for a factual adjudication of the issue raised by the appellant. It is open to the appellant to submit application for appointment, in response to the notification issued by the Department. The appellant should be given age relaxation, in case, it is found that she is over aged, taking into account, her participation in the earlier selection process, which was discontinued midway.

7. The intra court appeal is disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

vsi

To

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+1cc to Government Pleader SR.No.49492

W.A.No.1442 of 2019
and

C.M.P.Nos.9901 & 9902 of 2019

PP (CO)
GMY (08/07/2019)



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