

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.09.2019

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

Writ Appeal No.3135 of 2019

T.Rajakanni

...Appellant

Vs.

1.The Director of Public Health and Preventive Medicine
Chennai.

2.The Joint Director of Health Services
Salem.

3.The Deputy Director of Health Services
Salem.

...Respondents

Prayer: Writ Appeal filed against the order passed in
W.P.No. 27135 of 2005 dated 12.12.2018.

Prayer in W.P.No. 27135 of 2005:

Writ Petition filed under Article 226 of the
Constitution of India Praying for issuance of a Writ of
Mandamus directing the respondents to issue orders
appointing the petitioner as Pharmacist on contract basis
as per G.O.(D).No.373 Health and Family Welfare (C1)
Department of the Government of Tamil Nadu dated
13.5.2005 till the petitioner is accommodated in the
regular vacancy of Pharmacist as ordered in O.A.No.7053
of 2002 dated 28.11.2002 by the tamil Nadu Administrative
Tribunal at Chennai.

For Appellant : Mr. C.K.M.Appaji

JUDGMENT

[Order of the Court was made by S.MANIKUMAR, J.]

Challenging the order made in the Writ Petition in
W.P.No.27135 of 2005 dated 12.12.2018 the present Writ
Appeal has been filed.

2. Short facts stated in the writ petition are extracted hereunder:-

"2. The petitioner states that she had underwent Diploma Course in Pharmacy and completed the course successfully in the year 1984. The petitioner registered her name in the Tamil Nadu Pharmacy Council and according to her, she is eligible to be appointed to the post of Pharmacist in the Department of Health and Family Welfare. The Government of Tamil Nadu issued Government Order in G.O.Ms.No.105, Health and Family Welfare Department, dated 03.05.2000, permitting the respective Deans, Joint Directors, Deputy Directors of Health Services to fill up the District Employment Exchange as per the seniority. Pursuant to the above Government Order, the employment exchange sponsored the list of eligible candidates as per seniority and interview was fixed on 25.09.2000. Name of the writ petitioner was not sponsored by the District Employment Exchange as she was over aged. Thus the petitioner is constrained to move the present writ petition."

3. Considering the facts and circumstances of the case, the writ Court vide order dated 12.12.2018 in para Nos.3 to 5 held as follows:-

"3.This Court is of the opinion that appointment in public service can never be claimed as a matter of right. All appointments are to be made only by following the procedure contemplated under the Rules in force. Equal opportunity to take part in selection process is to be maintained at all times and all eligible persons must be provided with an opportunity to participate in the selection process through open competitive process. There cannot be any discrimination in respect of providing opportunity to participate in the process of selection for public services.

4. Undoubtedly, the Government passed an order granting permission to the respective appointing authorities to fill up the posts of pharmacists in the

Department of Health and Family Welfare. The appointing authorities also called for list of eligible candidates from the District Employment Exchange concerned. However, name of the writ petitioner had not been sponsored on account of the fact that the petitioner was over aged during the relevant point of time. Even at the time of filing of the present writ petition in the year 2005, the petitioner was aged 39 years and now she would be around 52 years. Under these circumstances, this Court is of the opinion that rejection of the name of the writ petitioner to participate in the selection process is in accordance with law and the Appointing Authority cannot grant age relaxation in respect of public recruitments.

5. This being the factum and the principles to be followed, writ petitioner has not established any acceptable grounds for the purpose of considering the relief as sought for in the present writ petition. The writ petition is devoid of merits and stands dismissed. No costs."

4. Heard, Mr.C.K.M.Appaji, learned counsel for the appellant.

5. Writ Court, while dismissing the writ petition has considered the age of the petitioner i.e., 52 years, at the time of filing the writ petition and rightly rejected her plea as she was over aged. The writ Court also considered that the petitioner was not sponsored through District Employment Exchange for appointment to the post of Pharmacist in the Department of Health and Family Welfare. Hence, we are not inclined to interfere with the order of the writ Court.

6. Accordingly, this Writ Appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

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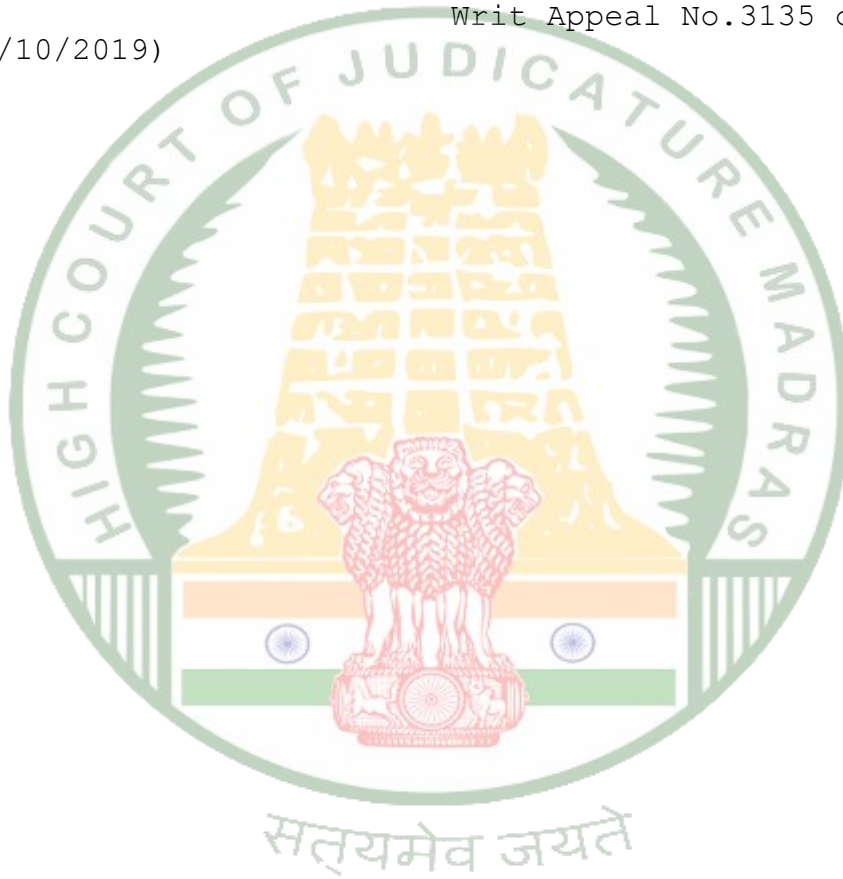
1.The Director of Public Health and Preventive Medicine
Chennai.

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A.SK(24/10/2019)



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