

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.28107 and 28112 to 28114 of 2019
and

W.M.P.Nos.27730, 27735, 27737, 27739, 27741 to 27744 of 2019

Dr.E.Raji KarthikaPetitioner
in W.P.No.28107 of 2019

Dr.K.ChevvidhazhPetitioner
in W.P.No.28112 of 2019

Dr.Kousalya BaskarPetitioner
in W.P.No.28113 of 2019

Dr.N.KarthikeyanPetitioner
in W.P.No.28114 of 2019

Vs.

1.State of Tamil Nadu,
Rep.by its Secretary,
Health and Family Welfare Department,
Secretariat, Chennai - 600 009.

2.The Director of Medical and Rural Health Services,
D.M.S.Buildings,
359, Anna Salai,
Teynampet,Chennai - 600 006.

3.The Member Secretary,
Medical Services Recruitment Board,
7th Floor, DMS Buildings, 359,
Anna Salai, Teynampet,
Chennai - 6.

... Respondents
(in all W.Ps)

Common Prayer: Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to fill up 1884 post of Assistant Surgeon (General) on the basis of the marks obtained by the candidates in the Written examination in pursuance to the Notification in Notification No:07/MRB/2018 issued by the 3rd

respondent dated 25.09.2018 and consequently appoint the petitioner in the post of Assistant Surgeon (General) if the petitioner comes within the zone of consideration in accordance with the explanation to the Section 27 of the Tamil Nadu Government Servant (Conditions of Service) Act, 2016 within the time period stipulated by this Court.

For Petitioners : Mr.T.Lajapathi Roy
(in all W.Ps)

For Respondents: Mrs.A.Srijeyanthi
Additional Government Pleader for R1
(in all W.Ps)
Mr.V.Kadirvelu,
Special Government Pleader
for R2 & R3
(in all W.Ps)

C O M M O N O R D E R

Mrs.A.Srijeyanthi, learned Additional Government Pleader, accepts notice on behalf of first respondent and Mr.V.Kadirvelu, learned Special Government Pleader accepts notice for respondents 2 and 3. By consent, these petitions have been taken up for final and common disposal at the admission stage itself.

2.These writ petitions have been filed seeking direction to the respondents to fill up 1884 post of Assistant Surgeon (General) on the basis of the marks obtained by the candidates in the Written examination in pursuance to the Notification in Notification No:07/MRB/2018 issued by the 3rd respondent dated 25.09.2018 and consequently appoint the petitioner in the post of Assistant Surgeon (General) if the petitioner comes within the zone of consideration in accordance with the explanation to the Section 27 of the Tamil Nadu Government Servant (Conditions of Service) Act, 2016 within the time period stipulated by this Court.

3.All the petitioners have completed MBBS Degree and qualified to participate in the recruitment for the post of Assistant Surgeon (General). While so, the 3rd respondent Medical Services Recruitment Board has issued a notification in Notification No.07/MRB/2018 dated 25.09.2018 inviting applications for 1884 vacancies for the post of Assistant Surgeon (General). The qualification prescribed for the said post is that the candidate should possess MBBS Degree. The scheme of examination is written examination and the minimum qualifying marks for SC/ST candidates is 30/100 and for other category candidates is 35/100. The procedure of selection is

based on the marks obtained in the written examination, duly following the rules of reservation and communal rotation of Government of Tamil Nadu. The petitioners have applied for the same post and participated in the written examination and scored 53.5, 47, 49 and 50.5 out of 100, which is more than the minimum marks required. These petitioners have not been called for certificate verification. However, certificate verification was carried out filling up 1884 vacancies and appointment orders were also issued to the candidates, who have been selected. The main grievance of the petitioners are that several candidates, who have participated in the certificate verification process have not joined in their respective post and presently more than 900 vacancies have not been filled up. According to the petitioners, the respondents ought to have filled up the vacant posts by way of accommodating the wait listed candidates like the petitioners. Though, the petitioners have sent representation to the respondents seeking to fill up the 1884 post of Assistant Surgeon (General) on the basis of the marks obtained by the candidates in the written examination and consequently appoint the petitioners in the said post, till date, the same has not been considered. Hence, the petitioners have filed the present petitions with the aforesaid prayer.

4. Heard both sides.

5. The learned counsel for the petitioners submitted that in the year 2017, when candidates were filled up over and above the advertised vacancy, the said process was upheld by this Hon'ble Court in W.P.(MD).No.13171 of 2017 on 06.09.2017. He further submitted that for all these years, the 3rd respondent has adopted a method in which certificate verifications were conducted continuously for filling up the non-joined vacancies from the reserve list of candidates. But, peculiarly in this year alone, the said method is not adopted and the same has resulted in paucity of Doctors in the Primary Health Centres and Hospitals in the State. However, he further submitted that though the petitioners sought for a large relief, it would suffice if a direction is issued to the 3rd respondent to consider the representation of the petitioners submitted on various dates and pass orders within the stipulated time as fixed by this Court.

6. The learned Special Government Pleader appearing for the respondents 2 and 3 conceded to the request made by the learned counsel for the petitioners and submitted that if any representations received by the 3rd respondent, the same would be considered on merits and in accordance with law.

7. Thus, without going into the merits of the case, the respondents 2 and 3 are directed to consider the representation

of the petitioners and pass orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of copy of this order. For ready reference, the petitioners are directed to enclose a copy of their representations along with this order copy to enable the respondents 2 and 3 to pass orders.

8. With the above direction, these writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary,
State of Tamil Nadu,
Health and Family Welfare Department,
Secretariat, Chennai - 600 009.
2. The Director of Medical and Rural Health Services,
D.M.S. Buildings,
359, Anna Salai,
Teynampet, Chennai - 600 006.
3. The Member Secretary,
Medical Services Recruitment Board,
7th Floor, DMS Buildings, 359,
Anna Salai, Teynampet,
Chennai - 6.

+4cc to Mr.K.Thilageswaran, Advocate Sr.82415, 82416, 82421 and 82420

+1cc to the Government pleader Sr.82319

W.P.Nos.28107 and 28112 to 28114 of 2019

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srg 05/11/2019