

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.09.2019

CORAM

THE HON'BLE Mr.JUSTICE M.DHANDAPANI

W.P.No.28401 of 2019
and
WMP.Nos.28087 & 28088 of 2019

P.Krishnan

... Petitioner

Versus

1.The Government of Tamil Nadu,
Rep.by its Chief Secretary,
Labour and Employment (T2) Department,
Chennai.

2.The Government of Tamil Nadu,
Rep. by its Secretary,
Health and Family Welfare Department,
Chennai.

3.The Commissioner,
Department of employment and Training,
Alandur Road,
Guindy,
Chennai-600032.

4.The Madras Services Recruitment Board,
Rep. by its Member Secretary,
7th Floor, D.M.S.Buildings,
359, Anna Salai, Teynampet,
Chennai-600006.

... Respondent

5.Tamil Nadu State Physiotherapy Council,
Rep. by its President,
52, 2nd Floor, Vijaya Nagar,
3rd Main Road,
Velachery,
Chennai-42.

... Respondents

Prayer: Writ Petition filed under Article 226 of the
Constitution of India praying to pass an order, direction or
Writ more particularly in the nature of Writ of Certiorarified

Mandamus calling for the records of second respondent in G.O. (Ms).No.95 dated 07.03.2019 and the consequential proceedings of fourth respondent in Notification No.16/MRB/2019 dated 22.08.2019 quash the same and consequently direct the respondents herein to grant weightage marks to the employment office seniority and the number of years of experience as Physiotherapist to the petitioner in the selection to the post of the Physiotherapist Grade-II by fourth respondent.

For Petitioner : Mr.A.Edwin Prabakar

For Respondents1-3 : Mrs.A.Sri Jayanthi
Special Government Pleader

For Respondent 4 : Mr.Vivek

O R D E R

The prayer sought for in the present Writ Petition is to call for the records of second respondent in G.O.(Ms).No.95 dated 07.03.2019 and the consequential proceedings of fourth respondent in Notification No.16/MRB/2019 dated 22.08.2019 quash the same and consequently direct the respondents herein to grant weightage marks to the employment office seniority and the number of years of experience as Physiotherapist to the petitioner in the selection to the post of Physiotherapists Grade-II by 4th respondent.

2. The case of the petitioner is that the petitioner completed Bachelor of Physio-Therapy from Government College of Physiotherapist, Trichy in the year 1997 and completed M.Sc. (Hospital Administration) in the year 2005 and further completed M.Phil Management in the year 2008. Thereafter, he completed Master of Physio-therapy and registered all his degrees in the employment exchange and renewed the same periodically. During the year 2014, the fourth respondent herein recruited Physio-therapist on consideration of employment office seniority vide notification No.2/MRB/E4/2014 dated 21.02.2014 and petitioner got rejected in the final selection. While being so, the fourth respondent herein invited applications for the post of Physiotherapist Grade-II vide. Notification No.16/MRB/2019 dated 22.08.2019. Instead of recruiting through employment exchange, the fourth respondent herein has adopted to recruit from open market without giving any weightage to employment exchange seniority.

3. The second respondent herein has issued G.O.(Ms)No.95 dated 07.03.2019 wherein Rule 3 of the rules of procedure of the Medical Service recruitment board was amended as follows:

" In the said Rules, for rule 3(A)(i), the following shall be substituted:

All Direct recruitment posts in Assistant Surgeon (General), Assistant Surgeon (Dental-General / Specialty), Nurses and Physiotherapist Grade-II shall be made, through open advertisement (in at least two newspapers and one of which must be in vernacular language), by conducting written examination (through physical or electronic mode) duly following the procedures prescribed."

By the above amendment, the second respondent has changed the recruitment rules by not giving weightage to the persons registered in the employment exchange.

4. The petitioner, by letter dated 02.04.2019, has also made a representation to the respondents. Since the petitioner is waiting for employment through employment exchange for more than twenty years, the second respondent had changed the method of selection without earmarking the weightage marks towards employment exchange seniority. Hence, the petitioner has preferred the present Writ Petition.

5. Mr.A.Edwinprabakar, learned counsel for the petitioner, would submit that without going into the merits of the case, it would suffice, if this Court issue directions to the respondents to consider the representation made by the petitioner, in accordance with law and to pass appropriate orders, therein.

6. Considering the facts and circumstances, without advertng to the issue of mode of recruitment adopted by the second respondent through open market, this Court directs the respondents to consider the representation given by the petitioner, on merits and in accordance with law and pass appropriate orders, as expeditiously as possible.

7. Accordingly, the Writ Petition is disposed of. Consequently, connected miscellaneous petitions are closed. There shall no order as to costs.

s/d-
Assistant Registrar (J)

True Copy

Sub-Assistant Registrar

To

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+1 CC to Mr.A.Edwin Prabakar, Advocate sr 82675.

सत्यमेव जयते

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SP(16/10/2019)