

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.09.2019

CORAM

THE HON'BLE Mr.JUSTICE M.DHANDAPANI

W.P.No.28460 of 2019

and

WMP.Nos.28166 & 28167 of 2019

G.Latha Gowri

... 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 Medical Services Recruitment Board,
Rep. by its Member Secretary,
7th Floor, D.M.S.Buildings,
359, Anna Salai, Teynampet,
Chennai-600006.
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 1,2 and 4th 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.

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 this 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 1,2 and 4th 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 registered her degree 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, 2013 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. 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 filed 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 grants liberty to the petitioner to give representation to the respondents and direction to the respondents to consider the representation that is to be filed and to pass appropriate orders, therein.

6. Considering the facts and circumstances, without adverting to the issue of mode of recruitment adopted by the second respondent through open market, this Court permits the petitioner to make representation to the respondents within a period of one week from the date of receipt of a copy of this order and this Court directs the respondents to consider the representation, if any, given by the petitioner, on merits and in accordance with law, and pass orders as expeditiously as possible.

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

s/d-

Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

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To

1. The Chief Secretary,
Government of Tamil Nadu
Labour and Employment (T2) Department,
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+1 CC to Mr.A.Edwin Prabakar, Advocate sr 82677.

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RV(CO)
SP(22/10/2019)

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