

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :27.11.2019

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.33120 of 2019

and

W.MP.Nos.33557 & 33558 of 2019

P.GUNADEEPAK

... Petitioner

Vs.

- 1 The Secretary Government
Health and Family Welfare Department,
Government of Tamil Nadu,
Fort St. George, Chennai-9.
 - 2 The Director of Medical and
Rural Health Services,
Teynampet, Chennai-6.
 - 3 The Director of Medical Education,
Kilpauk Chennai-10.
- ... Respondents

Prayer in both WPs.: Writ Petition filed under Article 226 of the Constitution of India praying to issue a WRIT OF Certiorarified MANDAMUS, Calling for the records in respect of the impugned Circular in Ref. No.19192/ E2/1/19 dated 14.5.2019 of the 2nd respondent calling for service particulars of the individuals borne on Ministerial Service and Subordinate Services including basic services (any class or category) who are qualified as on 15.3.2019 for preparing the panel for Appointment to the post of Medical Record Technician for the year 2019-20 quash the same and direct the respondents to fill up the post of Medical Record Technician by direct recruitment in proportion to the appointment already made by transfer of service.

For Petitioners : Mr.R.Ramachandran

For Respondents : Mrs.R.Janaki,
Additional Govt. Pleader

ORDER

The Writ petition is filed by the petitioner, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records in respect of the impugned Circular in Ref. No.19192/ E2/1/19 dated 14.5.2019 of the 2nd respondent calling for service particulars of the individuals borne on Ministerial Service and Subordinate Services including basic services (any class or category) who are qualified as on 15.3.2019 for preparing the panel for Appointment to the post of Medical Record Technician for the year 2019-20 quash the same and direct the respondents to fill up the post of Medical Record Technician by direct recruitment in proportion to the appointment already made by transfer of service.

2. According to the petitioner, he passed B.Sc. (Physics) Degree in the year 2008 and undergone six months Medical Record Technician Training at the Institute of Child Health and Hospital for Children, Egmore, Chennai-8 and passed Medical Record Technician Certificate Course examination and thereby, he became fully qualified for the post of Medical Record Technician in the Medical Department in Tamil Nadu. The grievance of the petitioner is that without adhering to the Rules and Regulations prescribed for the method of recruitment and without filling up the posts through open market by way of Direct Recruitment, the second respondent, for all the years, has been drawing panel for the recruitment for the posts of Medical Record Technician and appointing only in service candidates and thereby the petitioner is deprived of employment opportunities granted under Articles 16 of the Constitution of India.

3. The learned counsel for the petitioner would submit that the petitioner possessed requisite the qualification for the post of medical record technician and he has been anticipating the issuance of the notification for filling up the said posts by way of Direct Recruitment. However, the second respondent without resorting to direct recruitment method as per recruitment rules, every year drawing panel of the in-service candidates for recruitment and appointing the post of Medical Record Technician and by such method adopted by the second respondent, the petitioner would be deprived opportunity of participating in the recruitment and therefore the main circular issuing by the second respondent calling for the service particulars of the in-service candidates for the post of recruiting and appointing the post of Medical Record Technician is illegal and arbitrary and the same is liable to be set-aside.

4. Heard both sides and perused the entire materials available on record.

5. The grievance of the petitioner is that he completed Medical Record Technician Training in the year 2011 and thereby, he became eligible to be selected for the post of Record Technician, but till to date, there is no direct recruitment conducted and filled up the vacancies, but only resorting to fill up the same by in-service candidates and if the post is filled by the direct recruitment the petitioner may get chance for appointment. However, the proceedings of the Director of Medical Education dated 17.02.2017, copy of the same was obtained by the petitioner under RTI Act, would reveal the information as regards the query "the need to fill up the post by 'Direct Recruitment', it has been stated as under:

"The panel drawing authority for the post of Medical Record Technician is Director of Medical and Rural Health Services, Chennai. The vacancies available in both the Directorates are taken into consideration for preparation of panel for the post of Medical Record Technician every year. The vacancies prevailing in this Directorate has already been furnished to Director of Medical and Rural Health Services, Chennai and the panel for the year 2016-17 has not been published till date. Hence if the above vacancies are not completely exhausted by following the first method of appointment then the second method of appointment (ie) Direct Recruitment may be followed. Then there will no dearth of Medical Record Technicians in the institutions under the control of both Directorates.

As per the MCI norms, filling up of the vacancies in the post of Medical Record Technician is very much essential. If the vacancies are not filled up, the MCI will not accept. Further very few service candidates alone are eligible for filling up of the post of first method of appointment while drawing panel for the said post for the last 10 years by Director of Medical and Rural Health Services, Chennai."

6. Therefore, as per the MCI norms, the respondents are filling up the posts of Record Technician by drawing the panel and if the vacancies are not completely exhausted by following the first method of appointment ie inservice candidates, then

the second method of appointment ie direct recruitment is being adopted and this practice has been in vogue for the past 10 years. It is further stated that very few service candidates alone are becoming eligible for filling up of the posts by first method. Therefore, this Court does not find any illegality or irregularity in filling up of the posts by the respondents by drawing the panel of inservice candidates. Further, it is not for the petitioners to suggest or insist the respondents to resort a particular method of recruitment in the matter of filling of the posts when they are rightly resorting to both the methods based on the availability of the persons for the post.

7. For the foregoing reasons, this Writ Petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed. However, the petitioner is at liberty to work out his remedy by way of making a fresh representation before the appropriate authority, in the manner known to law.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

- 1 The Secretary Government
Health and Family Welfare Department,
Government of Tamil Nadu,
Fort St. George, Chennai-9.
- 2 The Director of Medical and
Rural Health Services,
Teynampet, Chennai-6.
- 3 The Director of Medical Education,
Kilpauk Chennai-10.

+1 cc to M/s.R.Ramachandran, Advocate Sr.No.99681

+1 cc to The Government Pleader Sr.No. 99432

AKM/08.01.2020/4P-6C /

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