

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Thursday, the Nineteenth day of December Two Thousand Nineteen

PRESENT

THE HON`BLE MR.JUSTICE N.ANAND VENKATESH

WMP No.35943 of 2019

IN WP.35154/2019

M.PAPPATHI

[PETITIONER]

Vs

1 STATE OF TAMIL NADU [RESPONDENTS]

REP. BY SECRETARY TO GOVERNMENT,
HEALTH AND FAMILY WELFARE DEPARTMENT,
FORT ST. GEORGE, CHENNAI 600 009

2 THE MEDICAL SERVICE RECRUITMENT,
BOARD, (MRB) REP. YU ITS MEMBER
SECRETARY, 7TH FLOOR, DMS BUILDINGS,
359, ANNA SALAI, TEYNAMPET, CHENNAI 600 006

3 DISTRICT MEDICAL BOARD OF
GOVERNMENT MEDICAL COLLEGE, REP. BY ITS
CHAIRMAN, GOVERNMENT MEDICAL COLLEGE AND
HOSPITAL, VILLUPURAM 605 601

4 THE STATE COMMISSIONER FOR THE,
WELFARE OF DIFFERENTLY ABLED, NO. 5,
KAMARAJAR SALAI, LADY WELLINGTON COLLEGE
CAMPUS, CHEPAUK, CHENNAI 600 005.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to issue an order of d interim direction directing the 4th respondent to reassess the disability level of the petitioner through some other board (WMP.35943/2019) pending disposal of the WP.35154/2019

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.D.GRACE JULIET PRAVEENA, Advocate for the petitioner and of MR.P.S.SIVA SHANMUGA SUNDARAM, SPECIAL GOVERNMENT PLEADER on behalf of the 1st Respondent and of MR.M.LOGANATHAN, Standing Counsel for the 2 & 3 Respondents the court made the following order:-

It is brought to the notice of this Court that the petitioner had participated in the selection to the post of Nurse under disability category. The claim of the petitioner is that she had already been assessed with 50% disability in the year 2009 and the same was again reiterated in the year 2013 and the pass book has been given to her by the department for disability which reveals the said fact. The petitioner was also selected and she was directed to produce the disability certificate from the board. However, the board has assessed the disability of the petitioner as 10%. This certificate given by the Board dis-entitles the petitioner to claim for the post under the disability category.

2. The learned counsel for the petitioner submitted that the petitioner has already been assessed with 50% permanent disability and it cannot come down in terms of percentage and therefore, the Medical Board went wrong in assessing the disability at 10%. The learned counsel further submitted that the 4th respondent namely, the State Commissioner of the Welfare of Differently abled can be directed to again assess the percentage of disability of the petitioner and the same will give a fair idea as to the claim that is made by the petitioner.

3. Heard Mrs.Grave Juliet Praveena, learned counsel appearing for the petitioner and Mr. P.S.Sivashanmugasundaram, Special Government Pleader for the 1st respondent and Mr.M.Loganathan, learned Standing Counsel appearing for the Medical Services Recruitment Board.

4. Mr.M.Loganathan, learned Standing Counsel appearing for the Medical Services Recruitment Board submitted that the petitioner was selected and the only requirement which requires to be satisfied by the petitioner is to produce the disability certificate. The learned counsel submitted that the 30 days time that was given to the petitioner to produce the certificate expires on 26.12.2019 and within a said time, the petitioner has to produce the certificate.

5. Taking into consideration the facts and circumstances of the case, this Court is inclined to direct the 4th respondent to assess the disability of the petitioner and give a report to this Court. The petitioner shall appear before 4th respondent / The State Commissioner for the Welfare of Differently abled on tomorrow i.e., on 20.12.2019. The report shall be sent through sealed cover to this Court and the same has to reach by 02.01.2020. On going through the report, further orders will be passed by this Court. In the meantime, the second respondent is directed to extend the time that was given to the petitioner to produce the certificate till 06.01.2020.

6. Post this case under the caption "for orders" on 02.01.2020.

-sd/-
19/12/2019

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE SECRETARY TO GOVERNMENT,
STATE OF TAMIL NADU,
HEALTH AND FAMILY WELFARE DEPARTMENT,
FORT ST. GEORGE, CHENNAI 600 009

2 THE MEMBER SECRETARY,
MEDICAL SERVICE RECRUITMENT, BOARD, (MRB)
7TH FLOOR, DMS BUILDINGS, 359, ANNA SALAI,
TEYNAMPET, CHENNAI 600 006

3 THE CHAIRMAN,
DISTRICT MEDICAL BOARD OF GOVERNMENT
MEDICAL COLLEGE, GOVERNMENT MEDICAL COLLEGE
AND HOSPITAL, VILLUPURAM 605 601

4 THE STATE COMMISSIONER FOR THE,
WELFARE OF DIFFERENTLY ABLED, NO. 5,
KAMARAJAR SALAI, LADY WELLINGTON COLLEGE
CAMPUS, CHEPAUK, CHENNAI 600 005.

C.C. to M/S.KARL MARX K.C. Advocate SR.NO. 15034

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Order
in
WMP.35943/2019
in
WP.35154/2019

Date :19/12/2019

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RRI 19/12/2019 (IT)