



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)Nos.18542,18543, 17033, 18005, 18006,
18018, 18551, 18552, 19496, 19503 of 2014

and

Connected Miscellaneous Petitions

R.Selvam, S/o.E.Raja

... Petitioner in WP(MD).18542/2014

R. Saravana Kumar S/o. Rathinam Pillai, No. 1/36, Chavadi Street,
Ayyampalayam, Dindigul District.

... Petitioner in WP(MD). 18543/2014

K. Sankar Ganesh, S/o. Kodiyan, Door No. 133/8, Subbaiah
Mudhaliyarpuram 4th Street, Thoothukudi.

... Petitioner in WP(MD). 17033/2014

N. Muthappa S/o . Nallamayan, V. Perumalpatti, Usilampatti Post,
Madurai District.

... Petitioner in WP(MD). 18005/2014

A.Thirumurugan, S/o A.Alwar, No.53/3 Ashok Nagar, Mamsapuram,
Thirumangalam, Madurai District

... Petitioner in WP(MD). 18006/2014

S.Karthi Raja, S/o A. Seeni, No.9/125 Gokul Nagar, T.Kallupatti,
Peraiyur Taluk, Madurai District

... Petitioner in WP(MD). 18018/ 2014

S.Kathirvel, S/o K.Suruli, No.29, Kaspaa Ayyalur,
Vedasandur Taluk, Dindigul District

... Petitioner in WP(MD). 18551/2014

A. Alagupandi, D/o.V. Andi, Maniakaranpatti, Ayyalur Post,
Vedasandur Taluk, Dindigul District.

... Petitioner in WP(MD). 18552/2014



M. Solaimalai, S/o. Marudhu Thevar, No. 31a-25, Anbu Nagar
5th Street, Aruppukkottai, Virudhunagar District.

... Petitioner in WP(MD). 19496/2014

A.Balamurugan S/o.Alagu Thevar, No.15a/2, Meenakshipuram
Street, Aruppukkottai, Virudhunagar District.

... Petitioner in WP(MD). 19503/2014

Vs.

The District Educational officer, Palani Educational District,
Palani, Dindigul District.

... Respondent in WP(MD).18542/2014
& WP(MD).18543/2014

The District Educational Officer, Thoothukudi District,
Thoothukudi.

... Respondent in WP(MD). 17033/2014

The District Educational Officer, Usilampatti Educational District,
Usilampatti, Madurai District.

... Respondent in WP(MD). 18005/2014

The District Educational Officer, Usilampatti Educational District,
Usilampatti, Madurai District.

... Respondent in WP(MD). 18006/2014

The District Educational Officer, Melur Educational District, Melur,
Madurai District.

... Respondent in WP(MD). 18018/2014

The District Educational Officer, Palani Educational District,
Palani, Dindigul District.

... Respondent in WP(MD). 18551/2014

The District Educational Officer, Palani Educational District,
Palani, Dindigul District.

... Respondent in WP(MD). 18552/2014

<https://hcservices.courts.gov.in/hcservices> The District Educational Officer, Virudhunagar Educational District,



Virudhunagar, Virudhunagar District.

... Respondent in WP(MD). 19496/2014

The District Educational Officer, Aruppukkottai Educational District, Aruppukkottai, Virudhunagar District.

... Respondent(s) in WP(MD). 19503/2014

COMMON PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to post/appoint the petitioner to the post of Lab Assistant/Lab Attender within the time stipulated by this Court.

For Petitioners : Mr.R.V.Rajkumar in all WP's
For Respondents : Mrs.S.Srimathi,
Special Government Pleader
in all WP's

COMMON ORDER

The relief sought for in these writ petitions is for a direction to the respondent to post/appoint the writ petitioners to the post of Lab Assistants/Lab Attenders within the time stipulated by this Court.

2.The writ petitioners state that they are fully qualified for appointment to the post of Lab Attenders as per the notification issued by the respondent. The Employment Exchange sponsored the names of the writ petitioners initially for the post of Office Assistants on temporary basis and all these writ petitioners were appointed as Office Assistants on permanent basis and they are continuing in service. Their initial appointments to the post of Office Assistants were confirmed and their services are regularised and they all are working in the sanctioned post of Office Assistant in the regular time scale of pay.

3.The learned counsel appearing on behalf of the writ petitioners state that the avenue for promotion to the post of Office Assistant is Night Watchmen etc., or to the post of Lab Attender. However, the writ petitioners were denied the opportunity for selection to the post of Lab Attenders. Thus, they are constrained to move these writ petitions.

4.The learned Special Government Pleader appearing on behalf of the respondent made a submission that in G.O.Ms.No.2378, Education Department, dated 30.10.1981 amendments were notified in the special rules for Tamil Nadu General Subordinate Service by the Government in the appointment of Laboratory Assistant in the Higher Secondary School in the State. As per the G.O.Ms.No.2378, the mode of



appointment of Laboratory Assistants as per Rule 2 are stated as follows:-

Laboratory Attenders in Higher Secondary Schools	(i)Transfer from the category of Record Clerks in the School Education Department in Class XXII of the Tamil Nadu General Subordinate Service. (ii)Recruitment by transfer of persons belong to the School Education Department in the Tamil Nadu Basic Service or (iii)By direct recruitment if no suitable and qualified candidates are available for appointment by the method specified in items (i) and (ii) above.
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As per Rule 5 the Laboratory Attenders should have the following qualifications:-

- (i)Must have passed S.S.L.C.,
- (ii)Must not have completed 28 years of age on the 1st day of July of the year in which a selection for appointment is made if recruited directed.

Provided that the persons appointed by recruitment by transfer/transfer must have completed three years of regular service in the respective category.

5.Pursuant to the Government Order in G.O.Ms.No.2378, the post of Laboratory Attenders to be filled up only if the candidates had completed three years regular service in the respective category. In view of the fact that the petitioners were not qualified, they were not permitted to participate in the process of selection for appointment to the post of Lab Attender.

6.May that it be, this Court is of the considered opinion that the present writ petitions are filed with reference to the selection conducted during the year 2014. During the relevant point of time, the writ petitioners were not qualified. The learned counsel for the petitioners state that the Rule itself is under challenge in W.P (MD)No.21058 of 2014. However, this Court is of the considered opinion that the challenge made in the rule in another writ petition cannot be a ground to issue the relief as such sought for in these writ petitions to direct the respondent to appoint the writ petitioners to the post of Lab Attenders. Even in case, the rule is quashed by this Court, then also a fresh selection is to be conducted for the purpose of appointment. No appointment can be made without conducting selection and by following the procedures contemplated in the recruitment rules for such selection and appointments. Thus, the pendency of the writ petition wherein the challenge of Rule made, may not have any relevance in respect of the



relief sought for in these writ petitions as the relief sought for is to be considered with reference to the facts remaining at the time when the writ petitions were filed.

7. Appointments/promotions can never be claimed as a matter of right. All appointments/promotions are to be made strictly in accordance with the recruitments rules or promotion rules in force. Equal opportunity for employment and promotions are the constitutional mandates and all eligible persons must be provided with an opportunity to participate in the process of selection and in the case of promotion, all eligible persons to be considered for inclusion of their names in the panel fit for promotion. However, the writ petitioners cannot seek a direction to direct the respondent to appoint the petitioners to the post of Lab Assistants without following the rules in force. As per the rules, which was in existence at the time of selection, the writ petitioners were found not qualified and at this length of time, now after a lapse of about 5 ½ years the writ petitioners cannot be issued with a direction for appointment to the post of Laboratory Assistant. Even in case of quashing of the rule or modification of the rule by the Government, necessary the writ petitioners have to undergo the process of selection for appointment to the post of Lab Attender. This being the principles to be followed, all these writ petitions filed for a direction to direct the respondent to appoint the writ petitioners to the post of Lab Assistant/Lab Attender, deserves no merit consideration and if the writ petitioners became qualified and eligible for appointment to the post of Lab Assistants/Lab Attender then, they are at liberty to participate in the process of selection/appointment/promotions whenever notified or undertaken by the competent authorities for the purpose of filling up the post of Lab Assistants/Lab Attenders.

8. With these observations, these writ petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

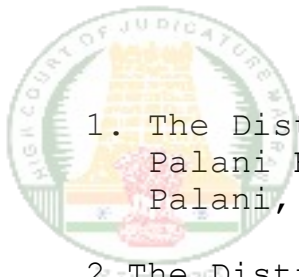
Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

To



1. The District Educational officer,
Palani Educational District,
Palani, Dindigul District.
2. The District Educational officer,
Thoothukudi District,
Thoothukudi.
3. The District Educational officer,
Usilampatti Educational District,
Usilampatti, Madurai District.
4. The District Educational Officer,
Melur Educational District,
Melur, Madurai District.
5. The District Educational officer,
Virudhunagar Educational District,
Virudhunagar, Virudhunagar District.
6. The District Educational officer,
Aruppukkottai Educational District,
Aruppukkottai, Virudhunagar District.

+1 CC to SPL GP SR-79683.

W.P. (MD) Nos. 18542, 18543, 17033,
18005, 18006, 18018, 18551,
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02.08.2019

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