



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.09.2019

CORAM :

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD)No.19654 of 2019

and

W.M.P.(MD)Nos.16111 and 16112 of 2019

Dr.Gokul, G.

... Petitioner

vs.

- 1.The Secretary,
Health and Family Welfare Department,
Secretariat,
Chennai - 600 009.
 - 2.The Secretary,
The Personnel Administrative Reforms Department,
Secretariat,
Chennai - 600 009.
 - 3.The Director of Medical and Rural Health Services,
D.M.S. Buildings,
359, Anna Salai,
Teynampet,
Chennai - 600 006.
 - 4.The Member Secretary,
Medical Services Recruitment Board,
D.M.S. Buildings,
359, Anna Salai, Teynampet,
Chennai - 600 006.
 - 5.The Director of Public Health and Preventive Medicines,
359, Anna Salai, Teynampet,
Chennai - 600 006.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Mandamus, directing the respondents to appoint the petitioner for the post of Assistant Surgeon (General) from the reserve list vacancies, arising out of 1884 total vacancies, notified in the fourth respondent's Notification No.07/MRB/2018, dated 25.09.2018, as per Section 27 (f) of the Tamil Nadu Government Servant (Conditions of Service)



Act, 2016, provided the petitioner meets other eligibility criteria, considering his representation dated 16.08.2019.

For Petitioner : Mr.M.Sathiamoorthy

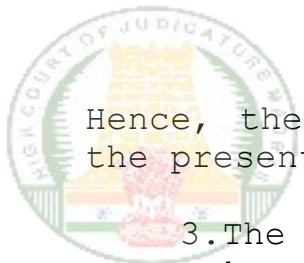
For R1 to R3 and R5 : Mr.VR.Shanmuganathan
Special Government Pleader

For R4 : Mr.T.S.Mohammed Mohideen

ORDER

This Writ Petition has been filed seeking a direction to the respondents to appoint the petitioner for the post of Assistant Surgeon (General) from the reserve list vacancies, arising out of 1884 total vacancies, notified in the fourth respondent's Notification No.07/MRB/2018, dated 25.09.2018, as per Section 27 (f) of the Tamil Nadu Government Servant (Conditions of Service) Act, 2016, provided the petitioner satisfies other eligibility criteria, by considering his representation dated 16.08.2019.

2.According to the petitioner, the fourth respondent issued a notification for appointment of 1884 posts of Assistant Surgeon (General). The minimum passing marks for SC/ST is 30 and for other categories is 35 out of 100. The petitioner, who belongs to MBC/DNC Community, has participated in the written examination on 09.12.2018 and secured 53.5 marks out of 100 marks, but he was not called for certificate verification. The other candidates were called for certificate verification and were issued with appointment orders for the post of Assistant Surgeon (General). The petitioner came to know that more than 50% of the candidates, who were issued with appointment orders, have not joined their respective posts and some of the candidates subsequently left the job for personal reasons. Further, as per the reply received from the fifth respondent on 30.07.2019 under the Right to Information Act, 600 Assistant Surgeons have left the service for joining higher studies during the academic year 2019. In another reply, the fifth respondent has stated that out of 1884 vacancies, only 1300 candidates were issued with appointment orders and remaining 584 posts are still vacant. Considering the fact that there are large number of posts vacant, the respondents ought to have filled up the posts from the reserve list, but they have not taken any steps. In such circumstances, the petitioner gave representations to the respondents 1, 3, 4 and 5 on 07.08.2019 and 20.08.2019. The respondents orally informed that they are not going to operate the reserve list, instead, they are going to publish the fresh notification. In this regard, the petitioner gave a representation dated 16.08.2019 to the respondents, but, no action has been taken so far on the representation of the petitioner.



Hence, the petitioner has approached this Court by way of filing the present Writ Petition for the relief stated supra.

3.The learned Special Government Pleader appearing for the respondents 1 to 3 and 5 and the learned counsel appearing for the fourth respondent submitted that the fourth respondent, by his proceedings dated 24.09.2019, provisionally selected 188 candidates against 'Not Joined Vacancies' for the temporary post of Assistant Surgeon. The petitioner's name did not find place in the said list. Hence, they pray for dismissal of this Writ Petition.

4.Heard Mr.M.Sathiamoorthy, learned counsel appearing for the petitioner, Mr.VR.Shanmuganathan, learned Special Government Pleader appearing for the respondents 1 to 3 and 5 and Mr.T.S.Mohammed Mohideen, learned counsel appearing for the fourth respondent.

5.It is seen that as per Rule 7 of the Medical Services Recruitment Board (MRB), 'the Medical Services Recruitment Board shall keep not more than ten percent of the estimated vacancies in the reserve list'. The total vacancies are 1884 and as per Rule 7, the fourth respondent has chosen 188 candidates for appointment to the post of Assistant Surgeon from the reserve list and the petitioner's name did not find place in the reserve list.

6.Considering the submission made by the learned counsel appearing for the parties, without deciding the issue on merits, the fourth respondent is directed to consider the representation of the petitioner, dated 16.08.2019 and pass orders on merits and in accordance with law, within a period of eight (8) weeks from the date of receipt of a copy of this order.

7.With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Secretary,
Health and Family Welfare Department,
Secretariat,
Chennai - 600 009.

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The Personnel Administrative Reforms Department,
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3.The Director of Medical and Rural Health Services,
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5.The Director of Public Health and Preventive Medicines,
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Chennai - 600 006.

+1 CC to M/s.T.S. MOHAMED MOHIDEEN, Advocate (SR-90489[F] dated 30/09/2019)

+1 CC to M/s.M. SATHIAMOORTHY, Advocate (SR-90650[F] dated 01/10/2019)

W.P. (MD)No.19654 of 2019
30.09.2019

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