



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.09.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.20315 of 2019

P.Arumugasamy

... Petitioner

-Vs-

1.The Secretary to Government
Health and Family Welfare Department
Fort. St.George
Secretariat
Chennai 09

2.The Director of Medical Education
Kilpakam
Chennai 10

3.The Chairman
Medical Service Recruitment Board
7th Floor, DMS Complex
359-Annasalai
Teynampet, Chennai -06

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the first respondent to pass appropriate order based on the recommendation of the 2nd respondent bearing Ref.No.89687/E51/1/2017, dated 29.05.2018 and Ref:No.89687/E5/1/2017, dated 12.10.2018 by considering the representation of the petitioner dated 31.08.2019 within a stipulated time that may be fixed by this Court.

For Petitioner	: Mr.S.C.Herold Singh
For Respondent Nos. 1 & 2	: Mr.V.R.Shanmuganathan Special Government Pleader
For Respondent No.3	: Mr.T.S.Mohammed Mohideen

ORDER

This Writ Petition has been filed to direct the first respondent to pass appropriate order based on the recommendation of the 2nd respondent bearing Ref.No.89687/E51/1/2017, dated 29.05.2018 and Ref:No.89687/E5/1/2017, dated 12.10.2018, by considering the representation of the petitioner, dated 31.08.2019, within a stipulated time that may be fixed by this Court.



2.The petitioner after completing 12th standard, underwent course of Certificate of Radiological Assistant, which is one year course, conducted by the second respondent in Tirunelveli Medical College Hospital, Tirunelveli. The third respondent issued notification for the year 2013, for appointment to the post of Radiographer. The petitioner applied for the said post and participated in the selection process. The petitioner was not selected, as he was junior to the other candidates in the employment seniority. Again in the year 2017, the third respondent issued notification for the post of Dark Room Assistant. The petitioner has applied for the said post and participated in the selection process. He called for certificate verification, at that time, he was not considered for appointment, on the ground that he has not studied Science group in +2.

3.Subsequently, the second respondent by proceedings dated 12.10.2018, recommended that the candidates, who have completed the Certificate course in Radiological Assistant with +2 Non-Science group, may be added to the Special Rule for appointment to the post of Dark Room Assistant.

4.The second respondent by his proceedings in Ref.No.89687/E5/1//2017, dated 29.05.2018, requested the Government to issue necessary amendment to the Rule relating to the qualification for the post of Dark Room Assistant in favour of the candidates with the qualification of HSC Non-Science, who have been permitted to undergo the certified Radiological Assistant Course during the academic year 2009-2010 for appointment to the post of Dark Room Assistant.

5.According to the petitioner, the first respondent has not passed any order on the recommendation of the second respondent. Hence, the petitioner gave representation on 31.08.2019 to the first respondent to pass orders, based on the recommendation of the second respondent dated 29.05.2018. But, no order has been passed so far. Hence, the petitioner has come out with the present writ petition.

6.Heard Mr.S.C.Herold Singh, learned counsel appearing on behalf of the writ petitioner, Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing on behalf of the respondent Nos.1 & 2 and Mr.T.S.Mohammed Mohideen, learned counsel appearing on behalf of the 3rd respondent.

7.The learned Special Government Pleader appearing for the respondent Nos. 1 & 2 and the learned counsel appearing for the 3rd respondent contended that at the time of selection for the year 2017, the qualification for the post of Dark Room Assistant was +2 Science Group with Certificate course of Radiological Assistant. The petitioner studied +2 Non-Science group and therefore, he is not eligible for appointment as Dark Room Assistant. The process of



selection, advertised in the year 2019 was also completed and as of now, the Rule was not relaxed and hence, they pray for dismissal of the writ petition.

8. From the materials on record, it is seen that when the third respondent called for application in the year 2017 for appointment to the post of Dark Room Assistant, the qualification for the said post is +2 Science group with certificate Course of Radiological Assistant. Admittedly, the petitioner studied +2 Non-Science group. According to the petitioner, in the earlier selection, for the year 2013, Non-Science group candidates also selected and appointed to the post of Radiological Assistant. That will not be the reason for appointing the petitioner in the subsequent selection. According to the petitioner, the second respondent has recommended to the first respondent for relaxing the Rule to include the +2 Non-Science group candidates, for appointment of Radiological Assistant and also for Dark Room Assistant. The learned counsel appearing for the third respondent submitted that the Rule is not yet relaxed and the selection process has already been over.

9. In view of the above, the Writ petition is dismissed. No costs.

10. Considering the rival submission of the learned counsel appearing for the petitioner, the petitioner is directed to give a representation to the first respondent for relaxation of the qualification. If any such representation is received, the first respondent is directed to consider the representation of the petitioner, in the light of recommendation of the second respondent and pass orders on merits and in accordance with law, as expeditiously as possible.

Sd/-
Assistant Registrar (CS-II)

/TRUE COPY/

Sub Assistant Registrar

msa

To

1. The Secretary to Government
Health and Family Welfare Department
Fort. St. George
Secretariat
Chennai 09



2.The Director of Medical Educations
Kilpakam
Chennai 10

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-88462[F] dated
23/09/2019)

+1 CC to M/s.T.S.MOHAMED MOHIDHEEN, Advocate (SR-88418[F] dated
23/09/2019)

+1 CC to M/s.GP (SR-88566[F] dated 23/09/2019)

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JM/18.10.2019/4P/6C