



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) Nos.20716 & 20743 of 2019

and

W.MP(MD) .Nos. 17361, 17337, 17364 & 17366 of 2019

WEB COPY

1.Dr.J.Saravanan ... Petitioner in WP.(MD).No.20716 of 2019

2.Dr.R.Praveen ... Petitioner in WP.(MD).No.20743 of 2019

-Vs-

1.State of Tamil Nadu
Represented by its Secretary
Health and Family Welfare Department
Secretariat, Chennai 600 009

2.The Director of Medical and Rural Health Services
D.M.S.Buildings,
359, Anna Salai,
Teynampet, Chennai - 600 006.

3.The Member Secretary
Medical Services Recruitment Board
7th Floor, DMS Buildings
359, Anna Salai, Teynampet,
Chennai - 6

...Respondents in both petitions

COMMON PRAYER: These Writ Petitions have been filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to fill up the 1884 post of Assistant Surgeon (General) on the basis of the marks obtained by the candidates in the written examination in pursuance to the Notification in Notification No.07/MRB/2018 issued by the 3rd respondent, dated 25.09.2018 and consequently appoint the petitioner in the post of Assistant Surgeon (General) if the petitioner comes within the zone of consideration in accordance with the explanation to the Section 27 of the Tamil Nadu Government Servant (Conditions of Service) Act, 2016, within the time period stipulated by this Court.

In both petitions:

For Petitioner	: Mr.T.Lajapathi Roy
For R1 & R2	: Mr.V.R.Shanmuganathan Special Government Pleader
For R3	: Mr.T.S.Mohamed Mohideen



ORDER

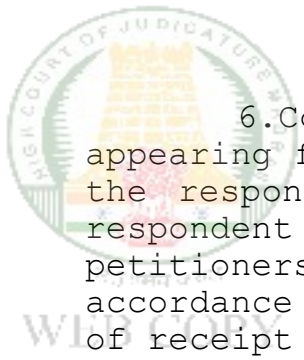
These Writ Petitions have been filed for a direction to the respondents to fill up 1884 posts of Assistant Surgeon (General) on the basis of the marks obtained by the candidates in the written examination in pursuance to the Notification No.07/MRB/2018, issued by the 3rd respondent, dated 25.09.2018 and consequently, appoint the petitioners in the post of Assistant Surgeon (General), if the petitioners come within the zone of consideration in accordance with the explanation to Section 27 of the Tamil Nadu Government Servant (Conditions of Service) Act, 2016, within a time period to be stipulated by this Court.

2. According to the petitioners, the third respondent issued notification for appointment of 1884 posts of Assistant Surgeon (General). The petitioners have participated in the selection process. The petitioner in W.P(MD).No.20716 of 2019 belongs to Backward Class and has secured 52.50 marks, out of 100 marks. The petitioner in W.P(MD).No.20743 of 2019 belongs to Most Backward Class and has secured 54 marks, out of 100 marks. There are 900 posts have been filled up by the respondents and still, 900 vacancies are unfilled. Even many of the persons, who were selected and appointed did not join duty. In such circumstances, the petitioners gave representation to the third respondent, dated 05.08.2019, to fill up the vacancies and consider them for appointment in any one of the vacancies, if they come within the zone of the consideration. Since no action was taken, the petitioners have come out with the present writ petitions.

3. The learned Special Government Pleader appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent submitted that the third respondent by proceedings dated 24.09.2019, provisionally selected 188 candidates against 'Not Joined Vacancies' for the temporary post of Assistant Surgeon. The petitioners' name did not find place in the said list. Hence, they pray for dismissal of these Writ Petitions.

4. Heard Mr.T.Lajapathi Roy, learned counsel appearing for the petitioners, Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the respondents 1 and 2 and Mr.T.S.Mohammed Mohideen, learned counsel appearing for the third 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 third respondent has chosen 188 candidates for appointment to the post of Assistant Surgeon, in the reserve list and the petitioners' name did not find place in the reserve list.



6.Considering the submission made by the learned counsel appearing for the petitioners and the learned counsel appearing for the respondents, without deciding the issue on merits, the third respondent is directed to consider the representation of the petitioners, dated 05.08.2019 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, these Writ Petitions are 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
State of Tamil Nadu
Health and Family Welfare Department
Secretariat, Chennai 600 009
2. The Director of Medical and Rural Health Services
D.M.S.Buildings, 359, Anna Salai,
Teynampet, Chennai - 600 006.
3. The Member Secretary
Medical Services Recruitment Board
7th Floor, DMS Buildings, 359, Anna Salai,
Teynampet, Chennai - 6.

+1 CC to M/s.T.S.MOHAMED MOHIDEEN, Advocate SR-89618.
+1 CC to GP SR-90212.
+2 CC to M/s.T. LAJAPATHI ROY, Advocate SR-90391 & 90392.

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