

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.14449 of 2013

And

M.P.No.1 of 2013

- 1.A.Muruganantham
- 2.G.Sumithra
- 3.S.Radhika
- 4.S.Chandra Sekar
- 5.J.Silambarasan
- 6.A.Ganesan
- 7.A.Baskaran
- 8.M.Naveen Kumar
- 9.P.Kalai Selvi
- 10.L.Sivanesan

... Petitioners

Vs.

- 1.The Secretary to Government,  
Health & Family Welfare Department,  
Secretariat,  
Fort St.George,  
Chennai - 600 009.
- 2.The Director of Medical & Rural Health Services,  
3<sup>rd</sup> Floor, DMS Complex, No.359,  
Anna Salai, Teynampet,  
Chennai - 600 006.
- 3.The Medical Services Recruitment Board,  
rep. by its Member Secretary,  
7<sup>th</sup> Floor, DMS Building, No.359,  
Anna Salai, Teynampet,  
Chennai - 600 006.
- 4.The Commissioner of Employment & Training,  
Thiru.Vi.Ka.Industrial Estate, Guindy,  
Chennai - 600 032.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to fill up the post of Laboratory Technician Grade II with

candidates possessing Diploma in Medical Laboratory Technology (DMLT) as stipulated in the Special Rules for Tamil Nadu Medical Subordinate Service and consequently select and appoint the petitioners as Laboratory Technician Grade II pursuant to the Certificate Verification held on 22.09.2010 on the basis of the Call Letter in Na.Ka.No.58532/Ni.Pi.5/3/2009, dated 30.08.2010 of the 2<sup>nd</sup> respondent.

For Petitioners: Mr.L.S.M.Hasan Fizal  
For Respondents: Mr.S.Thangavel for R1, R2 & R4  
Special Government Pleader  
Mr.M.Loganathan for R3

#### O R D E R

The petitioners have filed this writ petition seeking issuance of Writ of Mandamus directing the respondents to fill up the post of Laboratory Technician Grade II with candidates possessing Diploma in Medical Laboratory Technology (DMLT) as stipulated in the Special Rules for Tamil Nadu Medical Subordinate Service and to consequently select and appoint the petitioners as Laboratory Technician Grade II pursuant to the Certificate Verification held on 22.09.2010 on the basis of the Call Letter in Na.Ka.No.58532/Ni.Pi.5/3/2009, dated 30.08.2010 of the second respondent.

2.The case of the petitioners is that they have completed two year Diploma Course for Medical Laboratory Technician (DMLT) and were issued with the Diploma Certificates by the Government of Tamil Nadu and they have also registered the same in the District Employment Exchange.

3.It is the further case of the petitioners that the Government passed G.O.Ms.No.22, Health and Family Welfare (C2) Department, dated 29.01.2010 stating that the vacant posts of Laboratory Technician Grade II be filled up with candidates possessing DMLT qualification based on State Wide Employment Exchange Seniority. By the above Government Order, a Committee consisting of Director of Medical and Rural Health Services, Director of Medical Education and Director of Medical and Rural Health Services (ESI) would select the DMLT candidates based on State Wide Employment Exchange Seniority and would allot the candidates to three Directorates based on estimate of vacancies approved by the Government.

4.It is the further case of the petitioners that based on the above Government Order, the Committee called for DMLT candidates and selected them and allotted the chosen candidates to three Directorates. Consequently, the selected candidates were appointed as Laboratory Technician Grade II during 2010-

2011. The petitioners herein are also such selected candidates by the said Committee. The petitioners also attended the Certificate Verification on 22.09.2010 at 2.00 p.m. and were approved, however, were not appointed citing the ensuing General Assembly Elections in 2011. The petitioners were assured that they would be selected immediately after the elections and were informed that they are in the selected list/ waiting list. However, till date they were not appointed as Laboratory Technician Grade II. Hence, this writ petition.

5. Heard the arguments advanced on either side.

6. Perusal of the counter affidavit filed by the second respondent discloses that the petitioners appointment process of Lab Technician Grade II has been done strictly following the communal rotation and not violating G.O.Ms.No.22, Health and Family Welfare (C2) Department, dated 29.01.2010. The petitioners turn has not reached as per the communal rotation for the appointment of Lab Technician Grade II in the year and hence, they were not issued with the appointment orders, however, the petitioners misunderstood that the candidates who attended the Certificate Verification would be appointed. The counter affidavit further disclose that the petitioners were not aware of the State wide cut-off in the ratio of 1:5 (i.e., for every vacancy 5 candidates will be called for and only 1 candidate will be appointed following the communal roster system).

7. Hence it is clear that the petitioners participated in the selection process along with the other candidates, however, their turn has not reached as per the communal rotation for the appointment of Lab Technician Grade II. Hence, they were not given appointment orders.

8. In view of the categorical statement made by the second respondent in the counter affidavit, nothing survives for adjudication in this writ petition.

9. The writ petition is accordingly dismissed. However, liberty is granted to the petitioners to work out their remedy in the manner known to law. No costs. Consequently, connected miscellaneous petition is closed.

s/d-  
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Secretary to Government,  
Health & Family Welfare Department,  
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Fort St.George,  
Chennai - 600 009.
  2. The Director of Medical & Rural Health Services,  
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  4. The Commissioner of Employment & Training,  
Thiru.Vi.Ka.Industrial Estate, Guindy,  
Chennai - 600 032.
- +1 CC to Govt. Pleader sr 24676.

W.P.No.14449 of 2013  
And  
M.P.No.1 of 2013

VSNII (CO)  
SP(04/08/2020)

सत्यमेव जयते

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