



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE A.P.SAHI, CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.[MD]No.16868 of 2017

and

W.M.P.[MD]No.13446 of 2017

P.V.Senthil Kumar

: Petitioner

Vs.

1.The State of Tamil Nadu represented by
The Principal Secretary,
Health Department,
Secretariat,
Fort St. George,
Chennai - 600 009.

2.The Director of Medical Education,
Directorate of Medical Education,
State of Tamil Nadu,
162, EVR Periyar Salai,
Keelpakkam,
Chennai.

3.The Director of Medical and Rural Health Services,
Directorate of Rural and Health Services,
State of Tamil Nadu,
258, Second Floor, DMS Complex,
Anna Salai, Thenampettai,
Chennai.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Declaration, declaring the Adhoc Rules relating to the Temporary Posts of Dialysis Technician Grade-II that was published in the government Gazette on 21.06.2017, as ultra vires to the Constitution, consequently directing the respondents to



recruit dialysis technician preferably based upon the seniority within the time stipulated by this Court.

For Petitioner : Mr.S.Malaikani

For Respondents : Mr.VR.Shanmuganathan

Special Government Pleader

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O R D E R

[Order of the Court was made by
The Hon'ble Chief Justice]

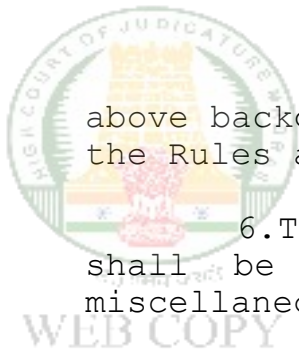
The challenge raised in the present writ petition is to the amendment brought about in Rule 5 of the Adhoc Rules relating to the Temporary Posts of Dialysis Technician Grade-II.

2.The main ground of challenge is that when the petitioner and such other similarly situated persons underwent the training of Dialysis Technician, conducted by the Director of Medical Education, Chennai, there was no such requirement of an educational qualification in the higher secondary course with particular subject. The training was therefore, undertaken with whatever subjects the petitioner and other similarly situated persons have passed.

3.The change of qualifications according to the petitioner therefore, amounts to violating Article 14 of the Constitution of India as this deprives them of their opportunity to seek employment after the promulgation of the amended Rules. The prayer therefore, is to strike down the said rules prescribing the minimum educational qualifications.

4.We have considered the submissions raised and the admission taken by the petitioner for undergoing a Dialysis Technician training for which a certificate was issued in the year 2006-2007, was sufficient to award him the said certificate. The completion of the said training therefore, did not guarantee an employment in future against the post of a Dialysis Technician Grade-II, where the qualification now required is that the candidate for direct recruitment should have passed the higher secondary course with Physics, Chemistry, Botany or Zoology or Physics, Chemistry, Biology and any other related subjects.

5.We therefore, do not find any element of legitimate expectation or a vested right having been acquired by the petitioner or such other candidates who have undertaken their training without having passed their higher secondary in particular subjects to claim appointment as a matter of right, after the amendment of the Rules. In the absence of any such vested right or any legitimate expectation based on a right, we do not find the argument advanced for declaring the amended rules as ultra vires to Article 14 of the Constitution of India, to be available to the petitioner in the



above background. Accordingly, no case is made out for striking down the Rules and the writ petition lacks merit.

6.The Writ Petition is accordingly, dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

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/ /2020

Sub Assistant Registrar(CS)

MR

To

1.The Principal Secretary,
State of Tamil Nadu,
Health Department,
Secretariat,
Fort St. George,
Chennai - 600 009.

2.The Director of Medical Education,
Directorate of Medical Education,
State of Tamil Nadu,
162, EVR Periyar Salai,
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Directorate of Rural and Health Services,
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258, Second Floor, DMS Complex,
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Chennai.

+1 CC to M/s.SPL.GP (SR-8388[F] dated 26/02/2020)

ORDER MADE IN
W.P.[MD]No.16868 of 2017
25.02.2020

KK/04.03.2020/3P-5C

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