



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2021

CORAM

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO. 20715 OF 2009

AND

M.P.NO. 2 OF 2009

N.Usharani

..Petitioner

Vs

1. The Director of Indian Medicine and  
Homoeopathy,  
Chennai-106.
2. The Assistant Director of Employment  
and Training, R.K.Madam Salai,  
Chennai - 4.

..Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India for writ of Certiorarified mandamus, calling for the records connection in Ref.No. 5565/E1/2/09 dated 15.09.2009 passed by the 1st respondent and quash the same and direct the respondents to allow the petitioner to participate the said interview for the post of Assistant medical officer Siddha through open market.

For Petitioners : Mr.G.Elanchezhiyan

For Respondents : Mr.T.Arun Kumar, AGP

O R D E R

This writ petition has been filed challenging the notification dated 15.09.2009, issued by the 1<sup>st</sup> respondent/Directorate of Indian Medicine an Homoeopathy, Chennai.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.



3. The learned counsel for the petitioner submitted that the writ petitioner, after completion of Siddha Medical Course, registered his name in the profession employment exchange in the office of the Assistant Director of Profession and Administrative Employment Exchange, Chennai. In the year 1999, he attended the interview for the post of Assistant Siddha Medical Officer, Rural Dispensary at C.Mutalur, Melbhuvanagiri Panchayat Union and he was selected for the said post and joined duty. Subsequently, for renewal of his seniority in employment exchange registration, the petitioner has sent a communication on 23.11.2005 to the Assistant Director of Employment and Training, Chennai -4. On verification, the petitioner came to know that his registration was not renewed. The petitioner has made representation for the same, but no action has been taken on his complaint.

4. The learned counsel for the petitioner has further submitted that subsequently, the petitioner has applied for the post of Assistant Medical Officers in Siddha under NRHM Scheme called for throughout the State of Tamil Nadu for 200 posts. The Principal Secretary and the Director of Indian Medicine and Homeopathy, Chennai have called for a list of eligible candidates for the said post and the candidates in the said list were directed to attend the interview which held from 05.10.2009 to 13.10.2009. The petitioner's name was not furnished for the interview. Hence the writ petition.

5. The main contention of the learned counsel for the petitioner is that without considering the request of the petitioner for renewal of employment registration, the Employment Exchange Officer Professional and Executive Employment Exchange, Chennai had forwarded the list of candidates excluding the name of the petitioner. Based on the aforesaid list submitted by the employment exchange, the candidates were selected for the said post. Therefore, the entire notification process issued by the respondent is illegal and arbitrary and the same is liable to be set aside on the ground that they have not followed the judgment of the Hon'ble Division Bench of this Court in W.A.No. 1027 of 2013 following the decisions of the Hon'ble Apex Court and also the Government order passed in G.O.(MS) No. 44, Labour and Employment (T2) Department, dated 11.03.2015.

6. This Court, at the time of admission, taking note of the decision rendered by the Hon'ble Full Bench of this Court in R.Sivakumar Vs. R.M.P. Edainilai Asiriyargal Sangam (2007 (6) MLJ 1583), had passed an interim order, directing the respondents to keep one post vacant until final orders passed in the writ petition.



7. Though this writ petition is taken up for final hearing at the distance point of time, the learned Additional Government Pleader fairly submitted that the aforesaid vacancy has not been filled up and the same will be filled up by following the guidelines issued in G.O.(MS) No. 44, Labour and Employment (T2) Department, dated 11.03.2015 issued consequent to the directions issued by the Hon'ble Division Bench of this Court in W.A.No.1027 of 2013 dated 09.06.2014.

8. In view of the settled legal position by the Hon'ble Division Bench of this Court in W.A.No.1027 of 2013 dated 09.06.2014, following the various decisions rendered by the Hon'ble Apex Court and the consequential Government Order passed in G.O.(MS) No. 44, Labour and Employment (T2) Department, dated 11.03.2015, the respondents are directed to fill up the said one post of Assistant Medical Officers in Siddha, which is kept vacant, by strictly adhering the guidelines issued in the aforesaid said G.O. It is needless to say that the respondents shall also follow the aforesaid G.O while filling the future vacancies in their department.

9. With the above directions, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

ak

To

1. The Director of Indian Medicine and Homoeopathy, Chennai-106.
2. The Assistant Director of Employment and Training, R.K.Madam Salai, Chennai - 4.

+1cc to M/s.G.Elanchezhian, Advocate, S.R.No.60427  
+1cc to the Government Pleader, S.R.No.60694

W.P.No. 20715 of 2009  
and  
M.P.No. 2 of 2009

SJ(CO)  
RLP(03/12/2021)