



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2021

CORAM:

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P. (MD)Nos.18481, 18482 and 18483 of 2017

and

W.M.P. (MD) .Nos.14917 to 14922 of 2017

WEB COPY

S.VINAYAGA SUNDAR

.. PETITIONER
in W.P. (MD) .No.18481/2017

K.KAVITHA

.. Petitioner
in W.P. (MD) .No.18482/2017

V.P.SHENBAGAMOORTHY

.. PETITIONER
in W.P. (MD) .No.18483/2017

Vs

1. THE PRINCIPAL SECRETARY TO GOVERNMENT OF TAMIL NADU,
SCHOOL EDUCATION DEPARTMENT,
6TH FLOOR, NAMAKKAL KAVINGAR MALIGAI,
FORT ST.GEORGE, SECRETARIAT,
CHENNAI - 600 009.
- 2 PRINCIPAL SECRETARY TO GOVT. OF TAMIL NADU,
DEPARTMENT OF HEALTH & FAMILY WELFARE,
SECRETARIAT,
CHENNAI - 600 009.
- 3 THE DIRECTOR OF SCHOOL EDUCATION,
SCHOOL EDUCATION DEPARTMENT,
6TH FLOOR NAMAKKAL KAVINGAR MALIGAI,
FORT ST.GEORGE, SECRETARIAT,
CHENNAI - 600 009.
- 4 THE COMMISSIONER,
DEPARTMENT OF INDIAN MEDICINE & HOMEOPATHY,
CHENNAI-106.
- 5 MEMBER SECRETARY,
MEDICAL SERVICES RECRUITMENT BOARD,
7TH FLOOR, DMS BUILDING, ANNA SALAI,
TEYNAMPET,
CHENNAI - 600 009.
- 6 CHIEF EDUCATIONAL OFFICER,
TRICHY & MADURAI DISTRICT SECONDARY SCHOOL
MEDICAL AID SCHEME,
MADURAI MEDICAL RESEARCH SCHEME,
OFFICE OF CHIEF EDUCATION OFFICER
MADURAI.



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7 DISTRICT EDUCATIONAL OFFICER,
TRICHY & MADURAI DISTRICT SECONDARY SCHOOL
MEDICAL AID SCHEME,
MADURAI MEDICAL RESEARCH SCHEME,
OFFICE OF DISTRICT EDUCATION OFFICER,
MADURAI. .. RESPONDENTS

Prayer in W.P. (MD) .No.18481/2017: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 2nd, 4th & 5th respondents to consider the recommendation of the 3rd respondent by his proceedings bearing Na.Ka.No.31971/M-E2/2008 dated 19.08.2009 and consequently direct the 2nd & 4th respondents to absorb the petitioner as the Assistant Medical Officer(Siddha) from the service of the 3rd respondent among one of the available 101 vacancies for the direct recruitment to the post of Assistant Medical Officer(Siddha) in Tamil Nadu Medical Service for the year 2017 with immediate effect.

Prayer in W.P. (MD) .No.18482/2017: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 2nd, 4th & 5th respondents to consider the recommendation of the 3rd respondent by his proceedings bearing Na.Ka.No.31971/M-E2/2008 dated 19.08.2009 and consequently direct the 2nd & 4th respondents to absorb the petitioner as the Assistant Medical Officer(Siddha) from the service of the 3rd respondent among one of the available 101 vacancies for the direct recruitment to the post of Assistant Medical Officer(Siddha) in Tamil Nadu Medical Service for the year 2017 with immediate effect.

Prayer in W.P. (MD) .No.18483/2017: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 2nd, 4th & 5th respondents to consider the recommendation of the 3rd respondent by his proceedings bearing Na.Ka.No.31971/M-E2/2008 dated 19.08.2009 and consequently direct the 2nd & 4th respondents to absorb the petitioner as the Assistant Medical Officer(Homoepathy) from the service of the 3rd respondent among one of the available 4 vacancies for the direct recruitment to the post of Assistant Medical Officer (Homeopathy) in Tamil Nadu Medical Service for the year 2017 with immediate effect.

In all writ petitions:

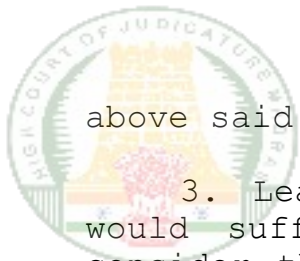
For Petitioner	: Mrs.S.Prabha for M/s.Thirumalaiappan
For Respondent Nos.1 to 4, 6 & 7	: Mr.C.M.Marichelliah Prabhu Additional Government Pleader
For Respondent No.5	: Mr.T.S.Mohamed Mohideen



COMMON ORDER

These petitions have been filed to direct the 2nd, 4th & 5th respondents to consider the recommendation of the 3rd respondent by his proceedings bearing Na.Ka.No.31971/M-E2/2008 dated 19.08.2009 and consequently direct the 2nd & 4th respondents to absorb the petitioners in W.P.(MD).Nos.18481 and 18482/2017 as the Assistant Medical Officer(Siddha) from the service of the 3rd respondent as against the direct recruitment of 101 vacancies for post of Assistant Medical Officer(Siddha) in Tamil Nadu Medical Service for the year 2017 and to absorb the petitioner in W.P.(MD).Nos.18483/2017 as against the direct recruitment of 4 vacancies for the post of Assistant Medical Officer(Homeopathy) in Tamil Nadu Medical Service for the year 2017 with immediate effect.

2. The case of the petitioners is that the petitioner in W.P.(MD).No.18481 of 2017 is a Post Graduate in Siddha, MD(s) and the petitioner in W.P.(MD).No.18482 of 2017 has completed B.S.M.S and both are Siddha Medical Graduates. The petitioner in W.P.(MD).No.18483 of 2017 is a Homeopathy Medical Graduate, who has completed B.H.M.S. These three petitioners were appointed by the 6th respondent as the Medical Officers in the year 2008 and 2006 respectively for consolidated pay, under the District Medical Research Scheme, 1968, vide G.O.Ms.No.315 dated 04.03.1968, to provide medical inspection and follow up treatment of the pupils studying in the Secondary Schools in the Districts of Madurai and Trichy. By the end of the every education year the petitioners were relieved from duty during the vacation months. Thereafter, they were appointed to the said post for the next education year. While so, the 3rd respondent, by his proceedings dated 19.08.2009 recommended to the 1st respondent to scrap the aforesaid scheme of the Education Department due to dissatisfaction over the implementation of the scheme. Thereafter, on the basis of the third respondent's recommendation, the 2nd respondent by his letters, dated 21.05.2015 & 31.05.2016 sought a clarification from the 4th respondent with respect to the Medical Officers of Indian Medicine, who served with the department of the 1st respondent to be absorbed in the department of the 4th respondent. The 4th respondent in turn sought clarification of the 3rd respondent with respect to the absorption of the petitioner and the other medical officers of Indian Medicine and the clarification dated 19.10.2016 received from the 3rd respondent was forwarded by the 4th respondent to the 2nd respondent for appreciation. Though many of the other category of staffs have been absorbed by the various relevant departments, the 2nd and 4th respondents have not taken any steps to absorb the petitioners in their department. While so, the 5th respondent has invited applications for the post of Assistant Medical Officer(Siddha) as against the direct recruitment of 101 vacancies and Assistant Medical Officer (Homeopathy) as against the direct recruitment of 4 vacancies in Tamil Nadu Medical Service on temporary basis on 02.08.2017, without absorbing the petitioners as recommended by the third respondent. Hence, the petitioners approached this Court with these writ petitions with the



above said prayer.

3. Learned counsel for the petitioners would submit that it would suffice, if this Court directs the second respondent to consider the petitioners for absorption to the above said posts at the earliest point of time

4. Learned Additional Government Pleader appearing for the respondents 1 to 4, 6 & 7 has no serious objection to consider the petitioners' request, in accordance with law.

5. In view of the limited scope of the prayer sought for by the petitioner, this Court, without expressing any opinion on the merits of the matter, directs the second respondent to pass orders on the recommendation, dated 19.08.2009, made by the third respondent on merits and in accordance with law, within a period of twelve(12) weeks from the date of receipt of a copy of this order.

6. With the above direction, these Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. THE PRINCIPAL SECRETARY TO GOVERNMENT OF TAMIL NADU,
SCHOOL EDUCATION DEPARTMENT,
6TH FLOOR, NAMAKKAL KAVINGAR MALIGAI,
FORT ST.GEORGE, SECRETARIAT,
CHENNAI - 600 009.

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MEDICAL AID SCHEME,
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OFFICE OF CHIEF EDUCATIONAL OFFICER
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- 7 DISTRICT EDUCATIONAL OFFICER,
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MEDICAL AID SCHEME,
MADURAI MEDICAL RESEARCH SCHEME,
OFFICE OF DISTRICT EDUCATIONAL OFFICER,
MADURAI.

+1 CC to M/s.T.S.MOHAMED MOHIDEEN, Advocate (SR-9929[F] dated 10/03/2021)

+1 CC to M/s.K.THIRUMALAIAPPAN, Advocate (SR-10016[F] dated 10/03/2021)

+1 CC to M/s.SPL GP (SR-10152[F] dated 10/03/2021)

**W.P. (MD) .No.18481,
18482 and 18483 of 2017**

09.03.2021

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