

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04-07-2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.20868 of 2014
And
MP Nos.1 and 2 of 2014

R.Pannerselvam

...Petitioner

vs.

1. Medical Services Recruitment Board,
Represented by its Member Secretary,
7th Floor, D.M.S.Building,
Teynampet,
Chennai - 600 006.
2. The Director,
Tamil Nadu State Health Transport Department,
Guindy,
Chennai - 600 032.
3. The Director of Employment and Training,
Guindy,
Chennai - 600 032.

(R-3 impleaded vide order of Court
dated 04.07.2022 made in MP No.1 of 2015
in WP No.20868 of 2014)

...Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondents pertaining to the order passed by the first respondent dated 23.07.2014 in Proc.Ref.No.20/MRB/E4/2012 and communicated by the second respondent on 28.07.2014 in R.No.6807/A1/ 2012 and quash the same and further direct the respondents to reinstate the petitioner with full backwages and other benefits.

For Petitioner : Mr.V.Anand

For Respondent-1 : Mr.M.Loganathan

For Respondents-2 and 3 : Mr.L.S.M.Hasan Fizal,
Additional Government Pleader.

O R D E R

The order ousting the services of the writ petitioner on the ground that his appointment to the post of Skilled Assistant Grade-II (Fitter Grade-II) was mistakenly made under the female category, is under challenge in the present writ petition.

2.The writ petitioner completed ITI Course and registered his name in the Employment Exchange. The name of the writ petitioner was sponsored for selection to the post of Skilled Assistant Grade-II (Fitter Grade-II) and the petitioner participated in the process of selection and he was appointed.

3.The petitioner joined in the post of Skilled Assistant and was working for about one year. The petitioner was appointed in proceedings dated 26.04.2013 issued by the second respondent and he had undergone the training and a Duty Certificate was also issued to the writ petitioner in the year 2014. The work allotment order was also issued to the writ petitioner. While-so, the petitioner received the impugned order of termination surprisingly by stating that his appointment was made against the female category and therefore his services are terminated. Thus, the petitioner is constrained to move the present writ petition.

4.The order impugned states that while verifying the records, it has been found that the name of the writ petitioner was registered as if he is a female candidate and considering him as a woman candidate, he has been selected as against Women Quota. Thus, the case of the writ petitioner was examined in detail by the Director of Employment and Training and a recommendation was made to cancel the selection of the writ petitioner made by the Medical Services Recruitment Board. Accordingly, the selection of the writ petitioner was cancelled and his services were terminated by that time the petitioner was served about one year.

5.The learned Additional Government Pleader appearing on behalf of the respondents 2 and 3 made a submission that the name of the writ petitioner has wrongly been entered as female candidate in the employment registration and the Board has recruited the petitioner under the category of 'Female' and the said mistake was subsequently traced out and accordingly the selection of the petitioner was cancelled and thus, the appointment of the petitioner was terminated.

6.This Court is of the considered opinion that the respondents could not establish whether the wrong entry in the Employment Exchange has been made at the instance of the

petitioner or at the instance of the officials of the Employment Exchange.

7.The learned counsel for the petitioner reiterated that the petitioner has not committed any default or entered himself as a female candidate. Even in the employment card issued to the writ petitioner, there is no such wrong mentioning or otherwise. However, the wrong entry has been made in the Employment Exchange concerned, for which the petitioner cannot be penalised.

8.That apart, the first respondent-Medical Services Recruitment Board conducted the process of selection. Even in case, the category of the petitioner is mentioned as 'female' instead of 'male' during the course of selection and by reading the name of the petitioner, the Board ought to have taken appropriate steps to identify the mistake or otherwise.

9.When the name of the petitioner is mentioned as 'R.Pannerselvam' and he participated in the process of selection before the Recruitment Board, selecting the writ petitioner at the women category cannot be at the instance of the writ petitioner, but certainly due to the mistake committed by the Recruitment Board and also by the Employment Exchange concerned.

10.In order to overcome the mistake committed by the Employment Exchange and the Board, they have cancelled the selection and issued an order of termination. Thus, the petitioner was not at fault and it is the fault committed by the Selection Board as well as by the Employment Exchange, for which the petitioner cannot be penalised. The petitioner had served about one year and he completed the training period and duty certificate was also issued to the writ petitioner.

11.Under these circumstances, the petitioner is entitled to succeed. However, the petitioner is not entitled for any backwages, as he has not worked in the post during the intervening period and the principle of 'No Work No Pay' would be applicable. Thus he is entitled for the continuity of service for the purpose of other benefits.

12. Accordingly, the order impugned passed by the first respondent proceedings in Ref.No.20/MRB/E4/2012 dated 23.07.2014 and the communication issued by the second respondent proceedings in R.No.6807/A1/2012 dated 28.07.2014 are quashed. The respondents are directed to reinstate the petitioner in service without any backwages, within a period of six weeks from the date of receipt of a copy of this order.

13.The writ petition stands allowed. However, there shall be no order as to costs.Consequently, connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

Svn

To

1. The Member Secretary,
Medical Services Recruitment Board,
7th Floor, D.M.S.Building,
Teynampet,
Chennai - 600 006.
2. The Director,
Tamil Nadu State Health Transport Department,
Guindy,
Chennai - 600 032.
3. The Director of Employment and Training,
Guindy,
Chennai - 600 032.

+2cc to Mr.A.M.Packiananthan Easter, Advocate, S.R.No.42809

+1cc to the Government Pleader, S.R.No.42959

W.P No.20868 of 2014

BP(CO)
RGA(14/07/2022)