

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28-06-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.24672 of 2014

And

MP No.1 of 2014

Dr.N.Parthasarathy

..Petitioner

vs.

1. Medical Services Recruitment Board (MRB),
7th Floor, DMS Building,
359, Anna Salai,
Teynampet,
Chennai - 600 006.
2. Director of Medical Services,
7th Floor, DMS Building,
359, Anna Salai,
Teynampet,
Chennai - 600 006.
3. Director of Medical Education,
Poonamallee High Road,
Kilpauk,
Chennai - 600 010.

..Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to appoint the petitioner to the post of Assistant Dental Surgeon (Speciality) Government Dental College or in Government Medical College attached hospitals and District Headquarters Hospitals or Taluk Headquarters Hospitals in the State of Tamil Nadu pursuant to the Notification No.1 of 2013 dated 31.03.2013 issued by the first respondent in any of the vacancy in the State of Tamil Nadu for the year 2013-2014 and consequently maintain the seniority as per law.

For Petitioner : Ms.Kaviyaa Silambanan for
M/s.Profexs Associates.

For Respondent-1 : Mr.M.Loganathan

For Respondents-2 and 3 : Ms.R.L.Karthika,
Government Advocate.

O R D E R

The relief sought for in the present writ petition is to direct the respondents to appoint the petitioner to the post of Assistant Dental Surgeon (Speciality) Government Dental College or in Government Medical College attached hospitals and District Headquarters Hospitals or Taluk Headquarters Hospitals in the State of Tamil Nadu pursuant to the Notification No.1 of 2013 dated 31.03.2013 issued by the first respondent in any of the vacancy in the State of Tamil Nadu for the year 2013-2014 and consequently maintain the seniority as per law.

2. Pursuant to the Recruitment Notification issued by the first respondent on 31.03.2013, the petitioner participated in the process of selection for appointment to the post of MDS Prosthodontics and for MDS with any Specialities.

3. The learned counsel for the petitioner made a submission that the name of the writ petitioner was not originally included in the Selection List. However, subsequently included in the Reserve List. The Reserve List was not acted upon. The recruitment was completed to fill up 36 posts in the cadre of Assistant Surgeon (Dental Speciality).

4. The petitioner states that though he was fully qualified and secured 72.5% marks, his name ought to have been considered subsequently for selection to the post of Assistant Surgeon (Dental Speciality) since number of posts were vacant during the relevant point of time when the selection process was conducted.

5. The learned counsel for the petitioner reiterated that originally 31 posts were notified and the selection was made for 36 vacancies and more number of vacancies were available during the relevant point of time. When the respondents have exceeded the notified vacancies and selected more number of candidates, they should have initiated steps to fill up all the vacant posts remained during the relevant point of time.

6. The learned counsel appearing on behalf of the first respondent-Board objected the said contentions raised on behalf of the writ petitioner by stating that as per the general instructions issued to the candidates in the Recruitment Notification No.1 of 2013 dated 31.03.2013 "The number of vacancies advertised is only an indicative number and is liable for changes with reference to vacancy position at any time before finalisation of selection for appointment".

7. In the present case, 31 vacancies were notified. However, during the process of selection, few in-service candidates were promoted by the Department and therefore, the Government issued instructions to select 36 candidates for appointment to the post of Assistant Surgeon (Dental Speciality). Pursuant to the Government instructions, 36 persons were selected.

8. The petitioner secured 72.5% marks and in the category of the petitioner, the last candidate selected one Dr.Lingeswar had secured 77.0% marks. In other words, the cut off mark for selection in the petitioner's category was 77.0% marks and therefore, the petitioner was not within the zone of consideration and accordingly he was not selected.

9. In view of the fact that the petitioner was not within the zone of consideration for selection to the post of Assistant Surgeon (Dental Speciality), the direction as such sought for by the writ petitioner in the present writ petition, cannot be granted.

10. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar

Svn

To

1. The Medical Services Recruitment Board (MRB),
7th Floor, DMS Building,
359, Anna Salai,
Teynampet, Chennai - 600 006.

2. The Director of Medical Services,
7th Floor, DMS Building,
359, Anna Salai,
Teynampet, Chennai - 600 006.
3. The Director of Medical Education,
Poonamallee High Road,
Kilpauk, Chennai - 600 010.

+1cc to M/s.Profexs Associates, Advocate, S.R.No.40816
+1cc to the Government Pleader, S.R.No.40780,40771

WP 24672 of 2014

AJS[co]
NSK/12/07/2022