



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.02.2022

CORAM:

THE HONOURABLE MR. JUSTICE B. PUGALENDHI

W.P (MD) No. 68 of 2022

and

W.M.P. (MD) Nos. 48 and 49 of 2022

R.J.Anurag

... Petitioner

-Vs-

1. The State of Tamil Nadu,
Represented by its Secretary,
Health and Family Welfare Department,
Fort St.George,
Chennai - 600 009.
2. The District Collector / Chairman,
District Health Society,
Nagercoil - 629 001.
3. The Deputy Director of Health Services,
Nagercoil - 629 001.
Kanyakumari District.
4. The Deputy Director of Health Services,
Tenkasi,
Tenkasi District.
5. The Block Medical Officer,
Government Primary Health Center,
Sandamaram - 627 857,
Tenkasi District.
6. Sandeep
7. J.A.Aswin
8. Jeyan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the second and third respondents to give appointment to the petitioner as Multi-purpose Health Worker (Male) / Health Inspector Grade - II at Kanyakumari District by awarding 30 marks for his work experience during COVID-19 pandemic in terms with G.O.(Ms).No.531, Health and Family Welfare (EAP II-2) Department dated 25.11.2021.

For Petitioner

: Mr.K.Ragatheesh Kumar
for M/s.Issac Chamber

For Respondents

: Mr.Veerakathiravan,
Additional Advocate General,



Assisted by Mr.J.Ashok
Additional Government Pleader

O R D E R

This Writ Petition has been filed for a Mandamus directing the second and third respondents to give appointment to the petitioner as Multi-purpose Health Worker (Male) / Health Inspector Grade - II at Kanyakumari District, by awarding 30 marks for his work experience during COVID-19 pandemic, in terms with G.O.(Ms).No.531, Health and Family Welfare (EAP II-2) Department, dated 25.11.2021.

2. Mr.K.Ragatheesh Kumar, learned counsel appearing for the petitioner submits that the petitioner is serving as a Health Inspector Grade-II in Government Primary Health Center at Kurukkalpatti, Tenkasi District. He possess HSC and 2 years of Multipurpose Health Worker Certificate. The first respondent vide G.O.(Ms).No.531, Health and Family Welfare (EAP II-2) Department, dated 25.11.2021, issued orders for Mid-Level Health Care Providers post on contractual basis based on certain guidelines. On the very same terms, the Department has also selecting Multipurpose Health Worker (Male) / Health Inspector Grade-II in Health Sub Centre - HWCs on some modalities for selection for contractual Mid-Level Health Care Providers. The petitioner has also applied for the post of Multipurpose Health Worker (Male) / Health Inspector Grade - II.

3. The grievances of the petitioner is that, as per the guidelines issued by the Department, the Department is providing 30 marks for those who served during COVID-19 pandemic situation in terms of G.O.(Ms).No.531, Health and Family Welfare (EAP II-2) Department, dated 25.11.2021. The petitioner has also served as a Health Worker from March during COVID-19 period at Government Primary Health Center at Kurukkalpatti, Tenkasi District. Therefore, he is eligible for special marks of 30 and he has also obtained a certificate for his service from Block Medical Officer and enclosed the same along with the typed set of papers. However, he was not provided with the special marks. Aggrieved over the same, the present Writ Petition is filed.

4. The learned Additional Advocate General appearing for the respondents 1 to 5 submit that the petitioner was not provided the special marks, since he has not enclosed the experience certificate, as mentioned in the Notification. The special marks are provided only those who rendered service during COVID-19 period. According to the learned Additional Advocate General, the candidates, who are claiming special marks, has to obtain the certificate from the concerned Authority, who has been mentioned in the Notification. However, the petitioner has not produced any valid certificate. Instead of obtaining the certificate from the Deputy Director of Health Services, he obtained the certificate from the Block Medical Officer, which cannot be accepted as per the Notification.

5. This Court paid its anxious consideration to the rival



submissions made and also perused the materials placed on record.

6. The petitioner has applied for the post of Multipurpose Health Worker (Male) / Health Inspector Grade-II at Kanyakumari District. The recruitments are made on contractual basis. The scoring criteria for assessing applications as per Annexure IV-A is extracted hereunder:

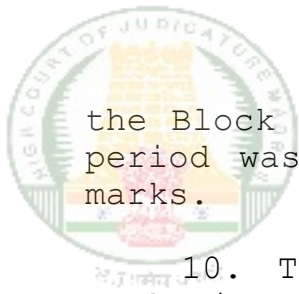
"3. Worked in the Department of Health and Family Welfare during the COVID-19 pandemic (upto a maximum of 10 months @ 3 marks per month)

Experience to be certified by Deans for DME institution, JDHS for DMS / Empaneled Private Institutions for COVID care, DDHS for DPH institutions including CC."

7. As per the criteria, 30 marks is provided to those who worked in the Department of Health and Family Welfare during COVID-19 pandemic (upto a maximum of 10 months @ 3 marks per month). As per the Notification, the experience certificate has to be certified by the Deans for DME institution, JDHS for DMS / Empaneled Private Institutions for COVID care, DDHS for DPH institutions including CC. The petitioner has claimed that he rendered service during COVID-19 period from March 2020.

8. According to the learned counsel appearing for the petitioner, he has served more than ten months during COVID-19 period and he was eligible for 30 marks as provided in Annexure IV-A. However, he obtained the certificate from the Block Medical Officer in stead of obtaining the same from Deputy Director of Health Services. As per the Notification, the experience certificate has to be obtained from the Deans for DME institution, JDHS for DMS / Empaneled Private Institutions for COVID care, DDHS for DPH institutions including CC. The notification was issued only in English and not in Tamil. Moreover, in Clause (VI) of the notification, the list of documents to be produced by the candidates at the time of verification and in Clause (VI) sub-clause (xi) states that any other special records of significance from competent authorities as indicated in the selection criteria mentioned. As per Clause VI sub-clause (viii), in the case of a differently-abled person, a certificate from the Block Medical Officer to the effect that the candidate is fit enough to discharge the duties assigned along with the percentage of Disability.

9. In the Notification, the designation of different Authorities were mentioned for getting experience certificate. Further, in the Notification it has been clearly stated that any other certificate which obtained from any other authorities would not be considered for the special marks. Admittedly, the petitioner has obtained the certificate for his experience from the Block Medical Officer. The certificate issued by the Block Medical Officer for the disability is accepted, whereas, the certificate issued by



the Block Medical Officer for his services rendered during COVID-19 period was rejected and he has not been awarded with the special marks.

10. The intention of the Government to provide the special marks is to recognise those who have rendered services during COVID-19. The petitioner claims to have rendered such service from March 2020 and has also been certified by the concerned Block Medical Officer, who is aware of the service rendered by the petitioner. Apart from the certificate, the petitioner has also enclosed the order of appointment, appointing the petitioner as Health Worker during pandemic period. In all fairness, the respondents shall ascertain whether the petitioner rendered any service during COVID-19 and shall award the special marks to the petitioner.

The respondents have also accepted that the petitioner has worked for one year and nine months under Director of Public Health in their counter affidavit.

11. The fact remains that the prescribed qualification for the post is only SSLC and HSC and the notification was issued in English and not in Tamil and different authorities were mentioned in the notification for issuing respective certificates. In this context, the petitioner has failed to obtain certificate from the Competent Authority and his application cannot be rejected and it would amount to rejecting the services rendered by him during COVID-19 period. The object for which the special marks provided has to be strictly complied with when the respondents have accepted that the petitioner has rendered services for one year and nine months ought to have provided special marks to the petitioner. The learned counsel also submits that still there are vacancies and there is a vacancy for Health Sub Center.

12. In the result, this Writ Petition is allowed and the respondents 2 and 3 are directed to give appointment to the petitioner, as Multi-purpose Health Worker (Male) / Health Inspector Grade - II at Kanyakumari District, by awarding 30 marks for his work experience during COVID-19 pandemic, in terms with G.O.(Ms). No.531, Health and Family Welfare (EAP II-2) Department, dated 25.11.2021. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vji

<https://hcservices.ecourts.gov.in/hcservices/>



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 Secretary,
The State of Tamil Nadu,
Health and Family Welfare Department,
Fort St.George, Chennai - 600 009.
2. The District Collector / Chairman,
District Health Society,
Nagercoil - 629 001.
3. The Deputy Director of Health Services,
Nagercoil - 629 001.
Kanyakumari District.
4. The Deputy Director of Health Services,
Tenkasi, Tenkasi District.
5. The Block Medical Officer,
Government Primary Health Center,
Sandamaram - 627 857,
Tenkasi District.

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-4080[F] dated 03/02/2022)

+1 CC to M/s.SPL.GP (SR-3982[F] dated 03/02/2022)

W.P (MD) No. 68 of 2022
and

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SE (CO)
KB(17.03.2022) 5P 8C