



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

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W.P. (MD) Nos.6530, 6531, 6532, 6533 & 6534 of 2019

and

W.M.P. (MD) Nos.5221, 5222, 5223, 5224, 5225, 5226, 5227, 5228, 5229
& 5230 of 2019

Gowri Rajam	... Petitioner in WP(MD). 6530 of 2019
Omparameswari	... Petitioner in WP(MD). 6531 of 2019
Subramanian	... Petitioner in WP(MD). 6532 of 2019
Vignesh Sundar	... Petitioner in WP(MD). 6533 of 2019
Sundari,	... Petitioner in WP(MD). 6534 of 2019
	vs.

1.The Principal Secretary to Government
Health & Family Welfare Department
Fort St.George, Chennai-600 009

2.The Member Secretary
The Medical Services Recruitment Board
7th Floor, D.M.S.Building
359, Anna Salai, Chennai-600 006 ... Respondents
in all the petitions

COMMON PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records relating to the impugned Notification No.13/MRB/2019 dated 01.03.2019 issued by the 2nd respondent and quash the same as illegal, arbitrary in respect of fixation of maximum age limit for OC Category candidates as 30 under Clause 6A of the impugned notification and consequently, directing the respondents to extend the benefits of the Government of Tamil Nadu in G.O.(2D) No.55 of the Health and Family Welfare (C1) Department, dated 06.07.2012 to the OC candidates by issuing appropriate corrigendum / errata notification for extension of time to apply for selection of appointment to the post of pharmacist so as to enable OC candidates to enjoy the benefit of G.O.(2D) No.55 of Health and Family Welfare (C1) Department, dated 06.07.2012.

IN ALL PETITIONS

For Petitioner : Mr.V.Angusamy
For Respondents : Mr.D.S.Nedunchezian
Government Advocate for R1
Mr.Mohammed Mohideen
Standing Counsel for R2



COMMON ORDER

These writ petitions have been instituted questioning the validity of the recruitment notification, dated 01.03.2019, issued by the second respondent, for selection to the post of Pharmacist in Tamil Nadu Medical Subordinate Service.

2. The petitioners state that they have completed Diploma in Pharmacy (D.Pharm) and registered in Tamil Nadu Pharmacy Council. The petitioners further state that they are fully qualified for recruitment to the post of Pharmacist in Tamil Nadu Medical Subordinate Service. The Medical Services Recruitment Board issued a notification on 01.03.2019 and with reference to the said notification, the petitioners claim that age relaxation is to be granted by extending the age relaxation already granted by the Government vide G.O.(2D) No.55, Health and Family Welfare (C1) Department, dated 06.07.2012. Clause-6A of the notification provides age limit for the candidates as on 01.07.2019 as follows:

Sl.No.	Category	Minimum Age (should have completed) (in years)	Maximum Age (in years)	
a.	For all categories	18	ST/SCA/SC/MBC&DN C/BCM/BC	OC
			57	30
b.	Differently Abled Person	18	57	40
c.	Ex-Servicemen	18	57	48

Note:

1. Sub-Section 8 of Section 20 of the Tamil Nadu Government Servants (Conditions of Service) Act-2016 shall be applicable to this recruitment.
2. Applicants not belonging to SCs, SC(A)s, Sts, MBC&DCs, Bcs, BCMs who have put in 5 years or more of service in the State / Central Government are not eligible to apply even if they are within the age limit.

3. The petitioners further state that already age relaxation was granted by the Government vide G.O.(2D) No.55, dated 06.07.2012 and the benefits of the said Government Order are to be further extended with reference to the impugned recruitment notification, dated 01.03.2019.

4. The learned Standing Counsel appearing for the second respondent - Medical Services Recruitment Board objected the above contentions of the petitioners by stating that admittedly the



Government granted age relaxation of five years as one time measure and accordingly, the five years period expired on 05.07.2017. Thus, the question of providing further concession would not arise at all and the one time measure granted vide G.O.(2D) No.55, dated 06.07.2012 cannot be extended for an indefinite period.

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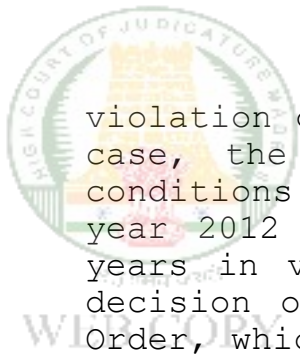
5. It is brought to the notice of this Court that 974 candidates were already selected by availing the benefit of age relaxation under G.O.(2D) No.55, dated 06.07.2012. Therefore, further relaxation would affect the equal opportunity in providing employment and hence, the benefit of age relaxation cannot be extended for an indefinite period.

6. It is further submitted that age relaxation was granted for Siddha Wing of the Medical Department considering the fact that there was dearth of candidates on siddha line. Therefore, the same yardstick cannot be adopted for Pharmacists in Allopathy side. When large number of qualified pharmacists are aspiring to secure employment in Government service, equal opportunity is to be granted in accordance with the Recruitment Rules in force.

7. Further, it is submitted that an amendment was issued subsequently amending the educational qualification. Accordingly, both B.Pharm and D.Pharm qualified candidates were eligible for appointment to the post of Pharmacist. With reference the amendment in the recruitment notification, a writ petition was filed in W.P.No.8746 of 2019 and the said writ petition was dismissed by the Honourable Division Bench at Principal Seat. Therefore, the amendment effected with reference to the educational qualification is upheld by the Court also.

8. Asfar as age relaxation sought for by the petitioners is concerned, G.O.(2D) No.55, dated 06.07.2012, stipulates that the upper age limit fixed for appointment to the post of Pharmacist to be removed to one and all as one time measure for a period of five years from the date of issuance of the Government Order i.e.06.07.2012. Accordingly, the five years period expired on 05.07.2017 and the impugned recruitment notification was issued on 01.03.2019 and therefore, the Court cannot extend the benefit of the Government Order which became expired in the year 2017 itself. With reference to the prescription of age limit, the respondents are following Section 20(8) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016. Therefore, the claim of the petitioners cannot be considered.

9. This Court is of the considered opinion that prescription of age limit, qualification etc., are the prerogative of the employer concerned. Once age limit, qualification and other criterias are fixed for recruitment to a particular post or cadre, the said criteria is binding on the candidates unless there is any



violation of any statute or service rules in force. In the present case, the respondents have fixed age limit as per the service conditions and the one time measure of age relaxation granted in the year 2012 for years cannot be extended beyond the period of five years in view of the fact that age relaxation itself is a policy decision of the Government and Court cannot extend the Government Order, which is not in force as on date.

10. This apart, such age relaxations are granted by the Government to mitigate certain injustice caused to a group of people. Such peculiar circumstances cannot be continued indefinitely for the purpose of grant of age relaxation for recruitment process to a particular post. All such one time policies are to be implemented with reference to the terms and the objects are to be achieved. In respect of subsequent selection process, recruitment rules are to be followed by providing equal opportunity to all the candidates, who all are aspiring to secure public employment.

11. In the present case, the petitioners seek extension of G.O.(2D) No.55, dated 06.07.2012, which cannot be granted by the Court by exercising the power of judicial review under Article 226 of the Constitution of India.

12. With the above observations, all the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AD-II)

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/ /2022

Sub Assistant Registrar(CS)

krk

To:

The Principal Secretary to Government,
Health & Family Welfare Department,
Fort St.George, Chennai-600 009.

+1 CC to M/s.SPL.GP. (SR-20484, 20485, 20486 & 20487)

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and

W.M.P. (MD) Nos.5221, 5222, 5223, 5224,
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sb (CO)

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