



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:08.04.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

W.P. (MD)No.8342 of 2019

and

W.M.P (MD)Nos.6538 and 6539 of 2019

WEB COPY

1.P.Alagarsamy
2.S.Thiruppathi
3.P.Nagendramani
4.N.Chidambaram
5.B.Balamurugan

... Petitioners

Vs.

1.The State of Tamil Nadu,
Rep by its Secretary for Health and
Family Welfare,
Fort St. George,
Chennai-9.

2.The Secretary,
The Tamil Nadu Medical Service
Recruitment Board,
7th Floor, DMS Building,
Chennai.

3.The Commissioner,
Commissionerate of Employment and Training
Thiru Vi Ka Industrial Estate,
Guindy,
Chennai-600 032.

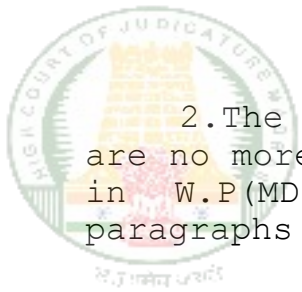
... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st and 2nd respondents to consider the representation of the petitioner by fixing marks for the employment registration and experience apart with weightage marks for the present recruitment in Notification No.13/MRB/2019 dated 01.03.2019.

For Petitioners	: Mr.K.P.S.Palanivel Rajan
For R1 and R2	: Mr.D.S.Nedunchezian Government Advocate
For R3	: Mr.T.S.Mohammed Mohideen

ORDER

The relief sought for in the present writ petition is to direct the first and second respondents to consider the representation of the petitioners by fixing marks for the employment registration and experience apart with weightage marks for the present recruitment in Notification No.13/MRB/2019 dated 01.03.2019.



2.The issues raised in this writ petition by the petitioners are no more res integra, it was considered elaborately by this Court in W.P(MD)No.2339 of 2018, dated 14.02.2018. The relevant paragraphs are extracted hereunder:

“5.The prayer in the writ petition is for directing the respondents to give exemption to the petitioner from the operation of G.O.Ms.No.401, Health and Family Welfare Department, dated 16.12.2014. The petitioner wants appointment based on her employment exchange seniority. When the petitioner's challenge to the said G.O failed, question of granting exemption will not arise. In any event, the petitioner after failing in her earlier attempt to dislodge the said G.O., cannot now seek exemption. Such a relief is patently not maintainable. Even more ridiculous is the demand for appointment on the basis of her employment exchange seniority.

6.The Hon'ble Supreme Court has held more than 20 years ago that in matters of public employment all other eligible candidates are entitled to participate in the selection process. The process cannot be confined to candidates who have registered themselves and who have been sponsored by the Employment Exchange. The present writ petition is a clear abuse of legal process. Since the petitioner has not made any averment in the affidavit filed in support of this writ petition and she has also not enclosed her affidavit and petition in W.P.No.25786 of 2015 wherein she challenged the validity of the G.O.Ms.No.401 dated 16.12.2014, this Court has to necessarily levy cost on the writ petitioner.

7.The issue of recruitment of Pharmacist by the fifth respondent Board was considered by the Hon'ble Division Bench and the selection process was directed to be resumed by order dated 06.11.2017. The said order passed by the Hon'ble Division Bench was also sustained by the Hon'ble Supreme Court.

8.When the Hon'ble Division Bench specifically directed the fifth respondent Board to proceed with the selection, it was not open to the petitioner to come before this Court and seek an injunction restraining the Board from appointing Pharmacists on the basis of Notification No.6/MRB/2016. The petitioner knowingly and deliberately sought to play with the process of this Court. This Court has to necessarily censure such a conduct.



9.This Writ Petition is dismissed with a cost of Rs.10,000/-. Consequently, connected miscellaneous petitions are also dismissed."

3.In the present case, the writ petitioners have sought for a direction not to implement the Government Order. However, in the above writ petition, the petitioner made a prayer seeking to give exemption from the Government Order, as he made a request to award marks for the employment exchange seniority. Thus, the relief sought for is also similar.

4.In view of the facts and circumstances, this Court is of the considered opinion that the petitioners are not entitled the relief as sought for in the writ petition and accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1.The Secretary for Health and
Family Welfare,
Fort St. George, Chennai-9.

2.The Secretary,
The Tamil Nadu Medical Service
Recruitment Board,
7th Floor, DMS Building,
Chennai.

+1 CC to M/s.T.S. MOHAMED MOHIDEEN, Advocate (SR-18227[F] dated 12/04/2022)

+1 CC to M/s.SPL.GP. (SR-18392[F] dated 12/04/2022)

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