



W.P(MD)No.13278 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13278 of 2022

and

W.M.P(MD)Nos.9429 & 9430 of 2022

G.Karthikai Raj

... Petitioner

Vs

- 1.The State represented by
The Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Chennai – 600 009.
- 2.The Director of Public Health & Preventive Medicine,
Office of the Public Health and Preventive Medicine,
DMS Compound,
Teynampet,
Chennai – 6.
- 3.The Deputy Director of Health Services,
Office of the Deputy Director of Health Services,
Tirunelveli,
Tirunelveli District.
- 4.The Block Medical Officer,
Government Primary Health Centre,
Meignanapuram,
Thoothukudi District.

5.S.Rajendran

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned panel for the post of Junior Water Analyst for the year 2021-2022 published by the second respondent in his proceedings in R.No. 081297/E2/S2/2021 dated 04.06.2022 and the consequential rejection order passed by the second respondent in his proceedings in Na.Ka.No. 081297/Pa.Tho.2/Iru.2/2021 dated 04.06.2022 served to the petitioner on 20.06.2022 and the consequential appointment of the fifth respondent made thereon by the second respondent in his proceedings in R.No. 081297/E2/S2/2021-7 dated 09.06.2022 and quash the same as illegal and consequentially to direct the second respondent to include the name of the petitioner in the panel of Junior Water Analyst for the year 2021-2022 and appoint him as Junior Water Analyst taking into account of his seniority on par with the date on which his juniors were appointed on recruitment by transfer.

For Petitioner : Mr.M.Ajmal Khan
Senior Counsel
for M/s. Ajmal Associates

For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader
for R.1 to R.4

Mr.R.Karthick Rajan for R.5

ORDER

Heard the learned Senior Counsel appearing for the writ petitioner, the learned Additional Government Pleader appearing for the official respondents and the learned counsel appearing for the fifth respondent.



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2. The writ petitioner is working as Assistant at Government Primary Health Center, Meignanapuram, Thoothukudi District. The post of Assistant is a feeder category for the promotional post of Junior Water Analyst in Tamil Nadu Public Health Subordinate Services. The qualification prescribed for the said post, is as follows :

“(i) Promotion or recruitment by transfer - B.Sc., B.Sc., (Hons), M.A or M.Sc., degree with Botany, Zoology or Chemistry as the main subject; and

(ii) Direct recruitment - M.Sc., degree with Botany, Zoology or Chemistry subject as the main subject.”

3. The writ petitioner is possessing the prescribed qualification (B.Sc Chemistry). The certificate was issued on 22.07.2021. However, the examination results had been published on 05.03.2021 itself. These facts are not in dispute. The crucial date for preparing the promotional panel was 15.03.2021. On the said date, the writ petitioner was admittedly qualified, but because he was not possessing the requisite certificate he was not included in the promotional panel. The promotion panel was prepared only on 04.06.2022. Willingness from the candidates in the feeder category was called on 08.09.2021. Proposal was submitted on 30.09.2021. Yet the petitioner was not



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included in the panel only for the reason that he was not having the requisite certificate on the crucial date. The question raised in this case was considered by the Hon'ble Division Bench in W.A(MD)No.1058 of 2020 dated 23.12.2020 (The Chairman, Teachers Recruitment Board Vs B.Jaiwanth & Ohters). Paragraph 7 of the judgment of the Hon'ble Division Bench reads as follows:

“7. As per the notification, what is required is passing of the required qualification. The cut-off date for the required qualification was fixed as 15.07.2019 and the petitioner passed the Degree Course well within the cut-off date, ie., on 14.07.2019, in view of the declaration of results by the University. Though the provisional certificate was issued belatedly, the first respondent also produced the same at the time of Certificate Verification and therefore, it cannot be construed that the first respondent was not having the required prescribed qualification, as on the last date of submission of filled-in online application.”

The case on hand is similar. Merely because the provisional certificate was issued subsequent to the crucial date, the petitioner cannot be disqualified on that ground.

4. The order impugned in the writ petition is interfered with to the extent it excludes the writ petitioner. The writ petitioner shall be granted promotion



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as Junior Water Analyst from date of on which his immediate Junior was promoted.

5. This writ petition is allowed. Consequently, connected miscellaneous petitions are closed. No costs.

10.11.2022

Index : Yes / No
Internet : Yes/ No
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To

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