



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2022

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THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P. (MD)No.10929 of 2017

and

W.M.P. (MD)Nos.8361 and 8362 of 2017

M.Balasubramaniyan ... Petitioner

vs.

1.The Government of Tamil Nadu,
represented by its Secretary,
Health Department, Secretariat,
Chennai.

2.The Chairman,
Medical Services Recruitment Board,
Chennai.

3.The Director of Medical Education,
Kilpauk, Chennai-10.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the notification of the 2nd respondent in Notification No. 03/MRB/2017, dated 08.05.2017 and to quash the same as illegal and also to direct the 2nd respondent to issue fresh notification following the reservation and seniority for the post of Anaesthesia Technician.

For Petitioner : Mr.S.Muthukrishnan
For R1 and R3 : M/s.D.Farjana Ghoushia
Special Government Pleader

For R2 : Mr.Mohamed Ali
for Mr.T.S.Mohamed Mohiden

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the notification of the 2nd respondent in Notification No. 03/MRB/2017, dated 08.05.2017 and to direct the 2nd respondent to issue fresh notification following the reservation and seniority for the post of Anaesthesia Technician.

2.The contention of the petitioner is that in the year 2005, the Director of Medical Education started one year certificate Course namely, Anaesthesia Technician, under Paramedical Certificate Course. This Course was offered in all the Medical Colleges situated in Tamil Nadu. The qualification for the said Courses is



Plus 2. Since the petitioner has completed Plus 2 in the year 2004, he joined in the said Course in K.A.P.Viswanathan Government Medical College in the year 2005 and completed the Course in the year 2006. At the time of joining the Course, the only eligibility criteria is that the person who intend to join the above said Course should complete Plus 2 with Science subjects, namely Physics, Chemistry, Botany, Zoology or Physics, Chemistry, Biology. The Medical Service Recruitment Board issued the impugned notification inviting applications for 77 posts in direct recruitment on temporary basis to the said post. As per the notification, last date for application in online registration and online payment is 29.05.2017 and the last date for offline payment of fees is 30.05.2017.

3. In the said notification under Section 7a, it has been stated that the selection will be made by the marks scored by the candidate in their academic and technical qualification for the post of Anaesthesia Technician duly following the rules of reservation and communal rotation issued by the Government of Tamil Nadu. There will be no oral test (interview) for the post and weightage of marks are given as follows:

Minimum Educational Qualification required for the post	Certificate course in Anaesthesia Technician	HSC/PUC	SSLC/10 th
Certificate course in Anaesthesia Technician with HSC/PUC	50%	30%	20%

4. The contention of the petitioner is that at the time of starting the Course, no specific mark was mentioned for plus 2 standard and it requires only pass in plus 2. But now, the Board has issued notification on giving weightage to the marks obtained in plus 2 and 10th standard, which is arbitrary and illegal. The contention of the petitioner is that this paves way for selection of more than 33% of women. By this notification, 88 women were selected and they were called for certificate verification.

5. The second respondent has filed a counter affidavit stating that as per G.O.Ms.No.1, Health and Family Welfare (C2) Department, dated 02.01.2012, the Medical Services Recruitment Board has been constituted exclusively for Health and Welfare Department so as to streamline the direct recruitment through all categories in the



Department. Earlier, as per G.O.Ms.No.36, Health and Welfare (C2) Department, dated 12.02.2014, the recruitment was based on seniority of registration in employment exchange subject to fulfilling minimum educational qualification and communal reservation. Thereafter, the method of selection was changed where the persons who were not registered with the employment exchange can also apply to the said post when open advertisement is issued. Based on G.O.Ms.No.401, Health and Family Welfare (C2) Department, dated 16.12.2014, the process of selection for Para Medical posts are based on marks obtained by the candidates in various examinations by giving weightage to their academic performance. Therefore, the claim of the petitioner cannot be taken into account and the post cannot be granted based on the seniority in employment exchange alone. Around 1527 candidates have been selected by the Medical Services Recruitment Board for 7 categories of posts.

6. As per the Notification No.3/MRB/2017, dated 08.05.2017, 50% weightage of marks have been given to the certificate course of Anaesthesia Technician and 30% weightage to Higher Secondary Course and 20% weightage to SSLC. It is also mentioned in the notification that in case the marks are not specifically awarded for any batch of certificate Course for Anaesthesia Technician, the selection for all candidates will be based on marks secured by them in HSC (30% weightage) and SSLC (20% weightage) examination only as per G.O.Ms.No.331, Health and Family Welfare (C2), dated 05.11.2015. In the present case, the Director of Medical Education has given in their letter No.78263/PME/1/2016, dated 02.06.2017, that only certificates are issued and mark sheets have not been given before January 2012 and the mark sheets are given only after January 2012 only on demand with respect to certificate Course for Anaesthesia Technician. Hence, the marks obtained by the candidates in HSC and SSLC have only taken into account for preparation of list as per merit and communal reservation. As per Rule 21 of General Rule of Tamil Nadu State and Subordinate Service rules, it has been clearly stated that appointment of woman shall be followed, 30% vacancies shall be set apart for women candidates and they are entitled to communal reservation for the remaining 70% of vacancy along with male candidates. Since woman candidates have secured higher marks, they have been selected in the certificate verification. Hence, there is no violation in the recruitment process.

7. Head Mr.S.Muthukrishnan, learned Counsel appearing for the petitioner, M/s.D.Farjana Ghousia, learned Special Government Pleader appearing for the first and third respondents and Mr.Mohamed Ali, learned Counsel appearing for the third respondent.



8.The contention of the petitioner is that since they have passed in the year 2005 and the marks were not awarded to them, the grievance was also addressed while recruiting under notification, dated 08.05.2017, read with Director of Medical Board Letter No.78263/PME/1/2016, dated 02.06.2017, where it has been stated that only the certificates were issued and mark sheets were not issued before January 2012. Hence, the marks obtained by the candidates in HSC and SSLC alone were taken into account for preparation of list of candidates for certificate verification as per merit and communal reservation. For the second point, the second respondent has stated and quoted Rule 21 of General Rule of Tamil Nadu State and Subordinate Services Rules which clearly states that 30% was allotted to women. Since the women candidates have secured higher marks, they have been included in the list. Therefore, the allegations stated in the Writ Petition are clearly addressed by the respondents. Therefore, the petitioner has not raised any ground to interfere with the selection process.

9. Hence, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Admin.I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Tmg

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,
Government of Tamil Nadu,
Health Department, Secretariat,
Chennai.



2.The Director of Medical Education,
Kilpauk, Chennai-10.

+1 CC to M/s.SPL GP (SR-7775[F] dated 22/02/2022)

W.P. (MD) No.10929 of 2017
21.02.2022

SS/01.06.2022 : 5P/4C