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W.P.(MD)No.16030 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD)No.16030 of 2017**  
**and**  
**W.M.P.(MD)Nos.12692 to 12694 of 2017**

B.Prabha Singh

... Petitioner

vs.

1.The Secretary to Government of Tamil Nadu,  
Health and Family Welfare Department,  
Secretariat, Chennai.

2.The Member Secretary,  
Medical Services Recruitment Board (MRB),  
DMS Building, 359, Anna Salai,  
Teynampet, Chennai- 600 006.

3.The Director,  
Directorate of Medical Education,  
Kilpauk, Chennai.

4.The Secretary,  
Board of Paramedical Education,  
Guindy, Chennai – 600 032.

... Respondents



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**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned provisional selection list for the post of Plaster Technician Grade II issued by the 2<sup>nd</sup> respondent in Notification No.04/MRB/2017, dated 20.06.2017 and to quash the same and consequently, to direct the 2<sup>nd</sup> and 3<sup>rd</sup> respondents to appoint the petitioner in the post of Plaster Technician Grade II.

|                 |                                  |
|-----------------|----------------------------------|
| For Petitioner  | : Mr.V.Sasi Kumar                |
| For R1, 3 and 4 | : Mr.P.Thambidurai               |
|                 | Government Advocate (Civil side) |
| For R2          | : Mr.T.S.Mohammed Mohideen       |

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### **ORDER**

This writ petition is filed for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned provisional selection list for the post of Plaster Technician Grade II issued by the 2<sup>nd</sup> respondent in Notification No.04/MRB/2017, dated 20.06.2017 and to quash the same and consequently, to direct the 2<sup>nd</sup> and 3<sup>rd</sup> respondents to appoint the petitioner in the post of Plaster Technician Grade II.



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2.The brief facts as stated in the affidavit are that in the year 2010, the petitioner applied to study Paramedical Certificate Course. The 4<sup>th</sup> respondent admitted the petitioner in the course namely, Orthopedic Technician (male) in the year 2010-2011. The said post comes under the Directorate of Medical Education. The Government of Tamil Nadu, vide notification, dated 08.05.2017, has issued the said notification for filling up 87 vacancies for the post of Plaster Technician Grade II and the petitioner had applied through online in application number 700421. The petitioner was called for certificate verification held on 12.06.2017 and the petitioner appeared with all relevant certificates. The Medical Services Recruitment Board (MRB) published a provisional list for the said post on 20.06.2017 but the petitioner's name was not in the list.

3.The contention of the petitioner is that even though the petitioner belongs to Scheduled Caste and is having eligible marks of 32.78, the petitioner's name was not in the list, but the persons who obtained lower marks were selected for the said post. The petitioner approached the respondents wherein it was informed



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that the petitioner has completed Higher Secondary Course with Commerce whereas only Science students are eligible for appointment as per the G.O. Infact, the respondents questioned the petitioner for completing the Orthopedic Technician Course without Science background. Thereafter, the petitioner approached the Director of Medical Department Office in person on 23.06.2017 and submitted a representation, dated 22.06.2017, requesting to do the needful. Since the representation was not considered, the petitioner is challenging the provisional list. At the time of admission of this case, this Court granted Interim Order in WMP(MD)No.12694 of 2017 in WP(MD)No.16030 of 2017, dated 24.08.2017, wherein it is stated as under:

*"If there is any vacancy available, as on today the respondents are directed to keep one post vacant."*

4. The second respondent has filed a counter affidavit stating that as per Adhoc Rules prescribed in G.O.Ms.No.348, Health and Family Welfare Department, dated 29.10.2014 for the post of Plaster Technician Grade II, the



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candidates should possess the following qualifications.

*“i. A pass in Higher Secondary Course (Academic) examination with eligibility for University Course of study.*

*ii. Must have passed one year Certificate Course in Orthopedic Technician conducted at Tamil Nadu Government Medical Institutions.”*

5. The Medical Services Recruitment Board has published Notification No. 04/MRB/2017, dated: 08.05.2017, to invite online applications for filling up of 87 vacancies in the post of Plaster Technician Grade-II. During certificate verification, it was found that the petitioner does not possess the requisite qualification because the petitioner has passed HSC in "Vocational" stream and not in "Academic" stream as mentioned in the Adhoc Rules. The respondents further states that the Provisional Selection List for the post of Plaster Technician Grade II has been published vide Notification No.04/MRB/2017, dated 20.06.2017, before the date of issuance of the above Interim Order. As per the Notification No.04/MRB/2017, dated: 08.05.2017, a list of 87 provisionally selected candidates been issued by the 2<sup>nd</sup> respondent to the Appointing Authority



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and the appointment and posing orders have been issued by Appointing Authority and the candidates have joined duty. Therefore, the respondents submitted that there is no vacancy and prayed to dismiss the writ petition.

6. The third respondent has filed counter affidavit stating that the petitioner has completed HSC in vocational stream and since it is not coming under academic stream, the petitioner is not entitled to the Paramedical Course. The 3<sup>rd</sup> respondent more or less reiterated the same contents as stated by the 2<sup>nd</sup> respondent.

7. Heard Mr.V.Sasi Kumar, learned Counsel appearing for the petitioner, Mr.P.Thambidurai, learned Government Advocate appearing for respondents 1, 3 and 4 and Mr.T.S.Mohammed Mohideen, learned Counsel appearing for the second respondent.



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8. The Learned Counsels appearing for the respondents submitted that a similar issue was considered earlier by this Court in W.P.(MD)No.6809 of 2017, in the case of ***J. Muthuvel Kumar Vs. State of Tamil Nadu and others***, wherein this Court has held that while considering the recruitment for Dark Room Assistants, this Court has held that the Court cannot direct for relaxation of conditions stated for appointments in the G.O.s and Rules. The relevant portion is extracted here under:

*“8. Having regard to the contents of the Government Order vide G.O.Ms.No.304 Health and Family Welfare(C2) Department, dated 07.10.2015 and other provisions of the Special rules for Tamil Nadu Medical Subordinate Service Rules, 1970, this court is convinced that a pass in Higher Secondary course with Science subjects, namely, a) Physics, Chemistry, Botany and Zoology or b) Physics, Chemistry, Biology and any one of the related subjects (viz.,) Maths or Computer Science is essentially required for the post of Dark Room Assistant and hence, the said educational qualification cannot be dispensed with and the respondents cannot be directed to relax the recruitment rules. This Court is also satisfied that the amendment of the rules by G.O.Ms.No.304 Health and Family Welfare(C2) Department, dated 07.10.2015, is in tune with the qualification prescribed by Atomic Energy Regulatory Board, Mumbai, for the post of Radiographer.*

*9. In such circumstances, this Court cannot direct either relaxation or issue direction to the respondents to consider the representation of the petitioners. It has been repeatedly held by the Hon'ble Supreme Court and*



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*this Court in number of cases, that the prescription of the eligibility criteria is within the exclusive domain of the recruitment agency or the employer. The judicial review in these cases is limited to circumstances wherein the eligibility criteria has been prescribed in a capricious manner. In the above circumstances, this Court find no merits in the Writ petitions. Hence, the Writ petitions are dismissed. No costs. Consequently, connected Miscellaneous petitions are closed.”*

9. In the present case, the petitioner has qualified HSC in Vocational stream. In the academic stream, Science is one of the subjects. In the Vocational stream, there is no Science subject at all. In fact, the respondents have raised a doubt how the petitioner was able to qualify in the certificate course of Orthopedic Technician itself, since admission for such course is available for the students underwent is science stream. Therefore, this Court is of the considered opinion that since the petitioner is not having qualification as stated in the notification for recruitment process and the petitioner is having only HSC Vocational stream, the petitioner is not eligible and he is not fulfilling the conditions stipulated in the notification. Therefore, the petitioner is not entitled to relief.



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10. With the above said observation, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No

**26.09.2022**

Internet : Yes

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To

- 1.The Secretary to Government of Tamil Nadu,  
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- 2.The Director,  
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**S.SRIMATHY, J**

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