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W.P.No.2286 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2023

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.2286 of 2020

C.Jayanthi

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by the Secretary to Government,
Directorate of Health and Family Welfare,
Fort St.George,
Chennai – 600 009.
- 2.The Director of Public Health and Preventive Medicine,
Chennai – 600 006.
- 3.The Deputy Director,
District Employment Exchange,
Villupuram.
- 4.The Deputy Director of Health Services,
No.9-A, Arumugam Layout,
K.K.Nagar,
Villupuram.
- 5.The District Employment Officer,
Villupuram,
Villupuram District.
- 6.The Medical Services Recruitment Board,
Rep. by its Member Secretary,
D.M.S.Building - 7th Floor,



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No.359, Anna Salai,
Chennai – 600 006.

... Respondents

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Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records on the file of the second respondent relating to the impugned order dated 28.10.2018 bearing Ref.R.No.88784/PHC7/A2/2018 and on the file of the third respondent dated 19.09.2018 bearing Ref.No.A2/3102/2018 and quash the same and consequently direct the respondents to appoint the petitioner to the post of Pharmacist with all service, monetary and other benefits.

For Petitioner : Mr.T.Sai Krishnan

For Respondents 1 to 5 : Mr.T.Cheziyan,
Additional Government Pleader

For Respondent 6 : Mr.L.Murugavelu

ORDER

This writ petition has been filed by the petitioner seeking to call for the records on the file of the second respondent relating to the impugned order dated 28.10.2018 bearing Ref.R.No.88784/PHC7/A2/2018 and on the file of the third respondent dated 19.09.2018 bearing Ref.No.A2/3102/2018 and quash the same and consequently direct the respondents to appoint the petitioner to the post of Pharmacist with all service, monetary and other



benefits.

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2.Learned counsel for the petitioner submitted that the petitioner has possessed Diploma in Pharmacy (D.Pharm) and he has registered herself with the third respondent/Employment Exchange originally at Cuddalore in the upside South Arcot District and the same was thereafter transferred to the third respondent office after the bifurcation of the erstwhile South Arcot District into Cuddalore and Villupuram District. Even though the petitioner has registered in the year 1992 itself, except for one interview by the second respondent in the year 1995, she was not sponsored for any other interview, though her name was continuously remains in the live register of the third respondent/Employment Exchange.

3. Learned counsel for the petitioner further submitted that due to misplacement of her employment card by the officials of the third respondent/Employment Exchange, persons who are juniors to the petitioner in terms of seniority in the Employment Exchange were sponsored for interview and appointed as Pharmacist, however, petitioner was not sponsored for interview. Moreover, the petitioner has already crossed the age limit of 35 years and as such, she made several representations to the third



respondent/Employment Exchange and only upon the same, it was found that by mistake of the Employment Exchange, her name was not sponsored.

Under the circumstances, she made a detailed representation to the respondents on 17.12.2001. However, there was no positive response. Therefore, she approached the Tamil Nadu State Administrative Tribunal by way of O.A.No.4235 of 2002 and by order dated 12.07.2002, the third respondent was directed to consider her representation dated 17.12.2001. However, no order was passed and she was also not given an order of appointment stating that there was a ban order by the Government of Tamil Nadu, which was in force. However, in the year 2006, the ban was revoked. Even then, her representation was neither considered nor the mistake was rectified by sponsoring her name to the post of Pharmacist.

4. Learned counsel for the petitioner contended that the petitioner has approached this Court by way of filing writ petition in W.P.No.13287 of 2007 challenging the decision of the third respondent/Employment Exchange and to direct them to consider and appoint the petitioner to the post of Pharmacist. Even though, the said matter was heard on several occasions, the respondents never filed any counter and therefore, when the matter was finally came up



for hearing before this Court on 12.07.2018, this Court observed that since there was no interim order, the question of appointment to the post of any existing vacancy did not arise and directed the respondents to consider the case by sponsoring the petitioner's name for future vacancy. Even after the said order, her name was not considered even in the ensuing vacancies. Therefore, she made repeated representations and reminders including notice of contempt through her counsel. Thereafter, on 19.09.2018, the fourth respondent passed an order stating that they will sponsor her name as and when the list is required from them. However, the second respondent herein passed an order stating that the order of the Hon'ble Court cannot be complied with because, now the Medical Service Recruitment Board has been formed and therefore, they will not ask for any list on their own.

5. Learned counsel for the petitioner further contended that the Medical Services Recruitment Board on the other hand issues recruitment notification calling for applications and the application is only by internet and the upper age limit is only 30 years and she cannot even submit her application on line. Under these circumstances, she has approached the office of the third respondent but the Employment Exchange says that they can sponsor only if



the name was asked for. The Directorate says that they cannot now sponsor because there is a Medical Recruitment Board, which does the recruitment and they did not ask for any list. The Medical Recruitment Board officers says that they are only recruiting agencies and as and when the number of vacancies are notified, they will call for applications in the open market and fill up the vacancies. The petitioner alone was not appointed because her employment card seem to have been misplaced by the Employment Exchange, which fact has been admitted all along. Hence, the petitioner has come forward with this present writ petition.

6. Learned counsel appearing for the sixth respondent has filed a counter affidavit dated 18.04.2023. For better appreciation, the relevant paragraphs are extracted hereunder:

“5. During the year 2014, the recruitment was done for the post of Pharmacist by notifying the vacancies to the Employment Exchange to sponsor list of eligible candidates on merit as per Notification No.01/MRB/E4/2014 dated 09.01.2014. The list of 1445 candidates sponsored by the employment exchange and the certificate verification was conducted by the Medical Services Recruitment Board from 20.01.2014 to 31.01.2014. The final list of selected candidates was prepared by the Medical Services Recruitment Board duly



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following the Employment Exchange Seniority and Communal rotation and the final list of provisionally selected candidates was also published on 17.02.2014 in the Medical Services Recruitment Board's Website.

6. The petitioner belongs to 'OC' category and her employment Registration No.VPD1992F00022179, dated 03.02.1992. It is further submitted that the details of the last selected 'OC' candidate during the year 2014 is as follows:-

S.No.	Year Selection	of Name	Community	Employment Registration Number	Registration Date
1.	2014	C.Jayanthi	OC	VPD1992F00022179	03.02.1992
2.	2014	M.Chitra	OC	TCD1998F0000113 4	26.06.1991

The date of registration of the petitioner herein in the Employment Exchange is 03.02.1992 with Registration No.VPD1992F00022179. It is clear from the above that the petitioner is for junior by virtue of her registration in the Employment Exchange, the then method of selection followed by the Board in the year of 2014 selection by the Medical Services Recruitment Board.

7. In the meantime, Government in their G.O.(2D) No.55, Health and Family Welfare (C1) Department dated 06.07.2012 have ordered that upper age limit prescribed to "other Communities" for appointment to the post of Pharmacist be removed to one and all as one time measure for period of five years from the date of issue of the order namely



06.07.2012.

11. The petitioner has also applied in notification No.06/MRB/2016 dated 31.01.2016 to the post of pharmacist (Application No.1415370). The cut of mark of last selected 'OC' category candidate in the year 2016 is 52.86 out of 70. The petitioner has secured only 34.86 out of 70. Hence, the petitioner has not reached the zone of selection for the post of Pharmacist as per the revised method of selection also and now approached this Court with a prayer to consider to the post as per the earlier selection procedure which is not all maintainable in law. The petitioner is trying to unsettle the settled matter. The selection process has already been completed in all the notification published by the Board in respect of recruitment to the post of Pharmacist in which the petitioner has not reached the zone of consideration by virtue of her seniority/marks scored in the weightage method."

7. Heard the learned counsel on either side and perused the materials available on record.

8. In this case, the petitioner possess Diploma in Pharmacy (D.Pharm) and registered in the Employment Exchange as early as in the year 1992 itself and during the year 2014, the recruitment was done for the post of Pharmacist by notifying the vacancies to the Employment Exchange to



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sponsor list of eligible candidates on merit as per notification No.01/MRB/E4/2014 dated 09.01.2014. The list of 1445 candidates were sponsored by the Employment Exchange and the certificate verification was conducted by the Medical Services Recruitment Board from 20.01.2014 to 30.01.2014 since, the name of the petitioner was not included in the list.

9. Subsequently, the Medical Service Recruitment Board has published the notification in the Medical Service Recruitment Board's Website No.06/MRB/2016 dated 31.01.2016 for filing up 333 vacancies to the post of pharmacist. The petitioner has also applied in response to the above said notification to the post of Pharmacist (Application No.1415370). **The cut off mark of the last selected 'OC' category candidate in the year 2016 is 52.86 out of 70 and the petitioner has secured only 34.86 out of 70. Hence, the petitioner has not reached the zone of selection for the post of Pharmacist as per the rules of selection.**

10. By the impugned order dated 28.10.2018 issued by the second respondent that the post of Pharmacists are filed up through the Medical Services Recruitment Board (MRB) by following the rules in force and it



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is further informed to the petitioner that she should follow the recruitment procedure of Medical Services Recruitment Board (MRB) for the post of pharmacists in the official website of the Medical Service Recruitment Board (MRB).

11. In view of the above factual matrix of the case, this Court is not inclined to grant relief to the petitioner as prayed for in this writ petition.

12. In the result, this writ petition stands dismissed. No costs.

27.09.2023

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Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No



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