



W.P.No.43426 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:20.06.2023

Delivered on: 14.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.No.43426 of 2016

&

W.M.P.Nos.37284 of 2016 and 22406 of 2017

Dr.W.Suresh Babu

... Petitioner

Vs.

1.The State of Tamil Nadu
Rep by its Secretary,
Health & Family Welfare Department
Fort St.George,
Chennai-600 009

2.The Member Secretary
Medical Services Recruitment Board
7th floor, 359, Anna Salai
Teynampet, Chennai-6

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to consider and appoint the petitioner forthwith as Assistant Surgeon(General) on the basis of the provisional selection and certificate verification on 14.08.2015 wherein he has been placed at Sl.No.277 with Registration No.30672-Exam



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No.30924 pursuant to the Notification 05/2014 dated 10.08.2014 of the 2nd respondent by taking into account the last date of the completion of Compulsory Rotatory Resident Internship (CRRRI) i.e., 29.07.2014 and to extend all benefits arising thereto.

For Petitioner : Mr.L.Chandra Kumar

For Respondents : Mr.M.Shahjahan, Spl.Govt.Pleader for R1

Mr.M.Loganathan, SC for R2

ORDER

The petitioner has filed the above Writ Petition for issuance of a Writ of Mandamus to direct the respondents to consider and appoint the petitioner as Assistant Surgeon (General) on the basis of his provisional selection and certificate verification dated 14.08.2015 and to extend all benefits arising thereto.

2. The petitioner's case is that he completed MBBS in 2013. He registered himself in Tamil Nadu Medical Council after completing one year of Compulsory Rotation Resident Internship commencing between



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30.07.2013 and 29.07.2014. Petitioner's case is that he having become fully qualified and met the eligibility criteria for the post of Assistant Surgeon (General). The 2nd respondent issued a notification dated 10.08.2014 requiring candidates to posses MBBS degree or equivalent degree and other criteria set out being

(i) must be a registered practitioner within the meaning of Madras Medical Registration Act, 1914;

(ii) must have served as House Surgeon for a period of not less than 12 months;

(iii) candidates should have registered their name in the Tamil Nadu Medical Council/ Tamil Nadu Dental Council before the date of their notification besides some other criteria which are not relevant for the purpose of the present Writ Petition.

3. The petitioner registered himself with the Tamil Nadu Medical Council only on 02.09.2014. As per the criteria prescribed by the 2nd respondent in the notification dated 10.08.2014, the petitioner ought to have



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already registered before the date of notification i.e 10.08.2014. The petitioner being fully qualified to be appointed as Assistant Surgeon having been provisionally registered himself in the Tamil Nadu Medical Council in 2013 itself, his case ought to have been considered favourably. The delay and lapses in consequential conferment of permanent registration by the Tamil Nadu Medical Council cannot be put against the petitioner. According to the petitioner, the action of the respondents was hit by the principles of promissory estoppel and also legitimate expectation because the petitioner had submitted all relevant certificates and documents that were required to be produced at the time of certificate verification and therefore, the petitioner should be given the benefit of relaxation of the rule that the candidates should have registered with the Tamil Nadu Medical Council before the date of notification i.e., 10.08.2014. In such circumstances, th petitioner has approached this Court to seek appointment to the post of Assistant Surgeon (General) on the basis of provisional selection and certificate verification on 14.08.2015.



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4. The respondent has filed a counter affidavit stating that the Notification 5 of 2014 for recruitment of 2142 vacancies to the post of Assistant Surgeon (General) was published on 10.08.2014 and last date for submission of application was mentioned as 01.09.2014. The notification clearly prescribes the qualification for the post and also various other criteria to be eligible for being appointed to the said post. Admittedly, the petitioner got himself registered with the Tamil Nadu Medical Council only after the notification dated 10.08.2014. Therefore, his case could not be accepted. Moreover, it is one of the preconditions and mandatory procedure being followed by the respondents right from 2012. The respondents have also referred to Clause (e) in Annexure-III of the said notification, which reads as follows:

“Candidates applying for the post of appointment to which registration of their names in Tamil Nadu Medical Council as the case may be, is a pre-condition. They should have registered their names before the date of the Board's notification. The registration shall be valid one. Original of the same has to be produced at the time of certificate



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verification along with other certificates.”

5. The petitioner does not qualify for the post and his provisional registration with the Tamil Nadu Medical Council in 2013 is of no avail because as per Clause 5(b) of the notification dated 10.08.2014, the candidate must be a registered practitioner within the meaning of Madras Medical Registration Act, 1914 which contemplates only permanent registration and there is no provision for any provisional registration or temporary registration. Further, the respondents relied on the ratio laid down by the Hon'ble Supreme Court in *Dolly Chhanda Vs. Chairman Jee & Ors*, reported in (2005) 9 SCC 779, holding that there can be no relaxation in the matter of requisite eligible qualification by the date fixed and at best there can be some relaxation in the matter of submission of proof. Therefore, according to the respondents, the petitioner was ineligible to apply for the post of Assistant Surgeon (General) as he did not possess the requisite qualification on the relevant date viz., 10.08.2014.

6. The 2nd respondent has filed an additional counter wherein, apart



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from reiterating the contentions put forth in the earlier counter, it is also stated that the petitioner has furnished a permanent registration number and also date of permanent registration in the online application. This amounts to clear and willful wanton act of furnishing wrong information and therefore the petitioner does not deserve any indulgence, having come to court with unclean hands.

7. Heard Mr.L.Chandra Kumar, learned counsel appearing for the petitioner and Mr.M.Shahhjan, learned Special Government Pleader, appearing for the 1st respondent and Mr.M.Loganathan, Standing Counsel for the 2nd respondent.

8. At the outset, as rightly pointed out by the counsel for respondents, the petitioner did not meet the very basic eligibility criteria. The relevant rule admittedly does not contemplate any temporary or provisional registration. What is required is permanent registration number with the Tamil Nadu Medical Council. Moreover, the conduct of the petitioner also disentitles him



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from seeking any relief. Admittedly, the petitioner knew very well that he did not possess a permanent registration number. However, while filling up the online form, he has given an imaginary number as well as date so that his online application gets accepted. Merely because the petitioner was subsequently called for certificate verification, it does not mean that the petitioner would automatically become entitled to the post. In such matters where applications were submitted online, it is well within the right of the respondents to verify the documents. During verification process, it has come to light that the petitioner has given incorrect and an imaginary permanent registration number as well as date of such permanent registration, which he could not establish by producing relevant documents or certificates at the time of verifying his certificates. Therefore, the respondents cannot be faulted for not selecting the petitioner.

9. A Writ of Mandamus can be sought for only when any legal right of the petitioner has been jeopardized or denied. In the instant case, the petitioner does not even qualify for the basic eligibility criteria and he cannot



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be said to have any legal right and therefore, the very Writ Petition itself is not maintainable. For all the above reasons, Writ Petition is dismissed. No order as to costs. Consequently, connected Writ Miscellaneous Petitions are closed.

14.07.2023.

Internet:Yes

Index:Yes/No

Neutral Citation:Yes/No

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To

1.The Secretary,
State of Tamil Nadu
Health & Family Welfare Department
Fort St.George,
Chennai-600 009

2.The Member Secretary
Medical Services Recruitment Board
7th floor, 359, Anna Salai
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Pre-delivery order in
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