



W.P(MD)No.4880 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 30.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.4880 of 2023
and
W.M.P.(MD)Nos.4564 and 4566 of 2023

1.R.Ceeman Chereal Mathue

2.A.Christy Deepa

... Petitioners

Vs.

1.The Secretary to Government,
Health and Family Welfare Department,
Secretariat, Fort St.George,
Chennai.

2.The Director of Medical Education,
New Bupathy Nagar, Chetpet,
Chennai.

3.The Member Secretary,
Medical Recruitment Board,
359, Anna Salai,
Chokkalingam Nagar,
Teynampet,
Chennai – 600 018.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to



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call for the records on the files of the 3rd respondent pertaining to its notification No.02/MRB/2023 dated 17.02.2023 and to quash the same with regard to the qualification specified in clause 6B restricting to Ophthalmic Assistant Course or two year diploma in Optometry and consequently direct the respondent to include BSc Ophthalmology along with the said course as qualification for appointment to the post of Ophthalmic Assistant by conducting the request of the petitioner dated 27.02.2023.

For Petitioners : Mr.S.C.Herold Singh

For Respondents : Mr.T.Villavan Kothai,
Addl. Government Pleader for R1 & R2.
Mr.M.Mohamed Mohideen,
Standing Counsel for R3.

ORDER

Heard the learned counsel on either side.

2.The petitioner is an aspirant for the post of Ophthalmic Assistant. The respondent board issued notification dated 17.02.2023 calling for applications from eligible candidates. The educational qualification has been prescribed as follows:-



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“6B. EDUCATIONAL QUALIFICATION:

Candidate shall possess the following qualification on the date of this notification viz. 17.02.2023

Sl. No	Name of the post	Qualification
1.	Ophthalmic Assistant	i. Passed the two year Ophthalmic Assistant course conducted, by a Government Medical College or any other institution recognized by the Directorate of Medical Education; or ii. Two year diploma in Optometry conducted by a Government Medical College or any other institution recognized by the Directorate of Medical Education and passed the three month condensed Para Medical Ophthalmic Assistant course conducted by the Regional Institute of Ophthalmology, Chennai or any other institution recognized by the Directorate of Medical Education.



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3.The petitioner is having degree in Optometry. As per Section 25 of the Tamil Nadu Government Servants (Condition of Service) Act, 2016, where the Special Rules prescribes the Diploma in a particular subject as a qualification then degree in the subject would be deemed to be a higher qualification. Therefore, the petitioner very much fulfils the first part of the said requirement. The other part of the requirement is that he must be have passed three months condensed paramedical ophthalmic assistant course.

4.This issue was already considered by me in W.P.(MD)No.5355 of 2023 vide order dated 03.04.023. Paragraph Nos. 3 to 6 of the said order are as follows:-

“3. When the matter was taken up for hearing, I on 13.03.2023, called upon the Director of Medical Education, Chennai to clarify if the course as provided in the Recruitment Rules is being conducted. In response to the Courts direction, the Director of Education had clarified vide communication bearing ref. No. 029217/PME/3/2023 dated 01.04.2023, that after 2003, the condensed PMOA training course has been



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discontinued. Clause~5B of the adhoc Rules for the post of Ophthalmic Assistant in the Government medical Institution is as follows:

“5(b) Other Qualifications:- No person shall be eligible for appointment to the post unless the possess the following qualifications namely:-

- i. Passed the two year Ophthalmic Assistant course conducted, by a Government Medical College or any other institution recognized by the Directorate of Medical Education; or*
- ii. Two year diploma in Optometry conducted, by a Government Medical College or any other institution recognized by the Directorate of Medical Education and passed the three month condensed Para Medical Ophthalmic Assistant course conducted by the Regional Institute of Ophthalmology, Chennai or any other institution recognized by the Directorate of Medical Education.”*

4. The impugned recruitment notification is a mere reiteration of the statutory Rule. The candidate cannot obtain the qualification of passing the condensed three months course, because the said course is not being conducted. No other institution is also conducting the said course. In these circumstances, the respondent will be unreasonable and would be acting in breach of Article 14 of the Constitution of India, if they insist that only those candidates who have passed the three months condensed



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course, will be considered for appointment to the post in question.

5. In this view of the matter, the respondents are directed to consider the petitioner's application on the footing that he is eligible to be appointed for the aforesaid post. In other words, the respondent will not insist on the qualification of completion of three months condensed paramedical ophthalmic Assistant course for the petitioner.

6. This Writ Petition is allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.”

5.The said decision squarely governs the present case also. Pursuant to the interim order given by this Court on 08.03.2023, the petitioner's application has already been accepted. The respondents will process the petitioner's application on merits and in accordance in law without insisting that the petitioner must have passed the three months condensed course mentioned above.



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6.This writ petition is allowed on these terms. No costs.

Consequently, connected miscellaneous petitions are closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

1.The Secretary,
Health and Family Welfare Department,
Secretariat, Fort St.George,
Chennai.

2.The Director of Medical Education,
New Bupathy Nagar, Chetpet,
Chennai.



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G.R.SWAMINATHAN, J.

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