



W.P(MD)No.5355 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.04.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

**W.P(MD)No.5355 of 2023
and
W.M.P(MD)Nos.5018 and 5019 of 2023**

S.Arunachalam

... Petitioner

Vs.

- 1.The State of Tamilnadu
represented by its Secretary to Government
Health and Family Welfare Department,
Secretariat,
Chennai - 600 009.
- 2.The Director of Public Health and Preventive Medicine,
D.M.S.Campus,
Teynampet,
Chennai - 600 006.
- 3.Medical Services Recruitment Board
represented by its Chairman / Members Secretary,
7th Floor, DMS Building,
359, Anna Salai,
Teynampet,
Chennai- 600 006.
- 4.The Director of Medical Examination,
DMS Campus, Chennai.

(R4 is suo motu impleaded vide Court order
dated 30.03.2023)

... Respondents



W.P(MD)No.5355 of 2023

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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned notification No.02/MRB/2023 dated 17.02.2023 issued by the third respondent Medical Services Recruitment Board calling for applications to fill up the post of Ophthalmic Assistant in Tamil Nadu Medical sub-ordinate service and quash the same in so far as fixing the qualification of completion of three months condensed Paramedical Ophthalmic Assistant Course for the two years Diploma holders of optometry in clause 6(B) (ii) in the said notification is concerned and consequently direct the respondents herein to consider the petitioner's representation dated 24.02.2023.

For Petitioner : Mr.S.Bharathi

For R1 and R2 : Mr.T.Villavan Kothai
Additional Government Pleader

For R3 : Mr.T.S.Mohammed Mohideen

ORDER

Heard the learned counsel for the petitioner and the learned Additional Government Pleader for respondents 1 and 2 and the learned standing counsel for the third respondent.

2.The petitioner is an aspirant for the post of Ophthalmic Assistant. The third respondent Board issued notification calling for application from the



W.P(MD)No.5355 of 2023

eligible candidates. The petitioner applied in response thereto. The petitioner encountered difficulty in view of the requirement in the relevant recruitment rules that the petitioner must have passed the condensed three months Paramedical Ophthalmic Assistant Course. The petitioner had not cleared the said post. The petitioner's application had been already uploaded. However, the petitioner feared that since he has not cleared the said three months Paramedical Ophthalmic Assistant Course, his application may be eventually rejected. That led to the filing of this writ petition.

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 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:-



W.P(MD)No.5355 of 2023

- 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 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



W.P(MD)No.5355 of 2023

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.

03.04.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No

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To

- 1.The Secretary to Government,
State of Tamilnadu, Health and Family Welfare Department,
Secretariat, Chennai - 600 009.
- 2.The Director of Public Health and Preventive Medicine,
D.M.S.Campus, Teynampet, Chennai - 600 006.



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W.P(MD)No.5355 of 2023

G.R.SWAMINATHAN, J.

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W.P(MD)No.5355 of 2023

03.04.2023