



W.P(MD)No.8417 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.04.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.8417 of 2023

S.Renjit Singh

... Petitioner

Vs.

1.The State of Tamil Nadu
represented by its Principal Secretary to Government,
Health & Family Welfare Department,
Chennai-600 009.

2.The Director of Medical Education,
Kilpauk, Chennai-600 010.

3.The Dean,
Kanyakumari Government
Medical College Hospital,
Asaripallam,
Kanyakumari District.

... Respondents

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 in pursuant to the impugned order passed by the first respondent in Letter No.28534/C2/2019-5, dated 16.03.2023 and quash the same and consequently, direct the respondents to post the petitioner as Statistician in the third respondent hospital in the existing vacancy.



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For Petitioner : Mr.M.Saravanakumar

For Respondents : Mr.K.Balasubramani
Special Government Pleader

ORDER

Heard the learned counsel on either side.

2. The only question that calls for consideration is whether the petitioner is eligible to be appointed as Statistician in Tamil Nadu Public Health Subordinate Services. The method of appointment and educational qualification have been set out in the circular bearing Ref.No.4939/E5/3/2014, dated 12.02.2014. It reads as follows:-

(a) Method of Appointment

(i) By recruitment by transfer from among the members of the Tamil Nadu Ministerial working in Medical Department.

or

(ii) By transfer from any other class or category

or

(iii) If no qualified and suitable persons are available by any of the above 2 methods, by direct recruitment.

(b) Educational Qualification

(i) Degree with statistics are main subject

or

(ii) Degree in Mathematics with Statistics as Ancillary subject

or

(iii) Degree in Economics with Statistics as Ancillary subject with 2 years experience in Medical or Bio Statistics in a teaching institution.



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3. The petitioner is having the requisite educational qualification. However, the petitioner is now working as Radiographer. Its pay scale is admittedly lower compared to that of Statistician. When the method of appointment contemplates recruitment by transfer, it obviously means that the candidate must be holding a post that is equivalent in terms of pay scale. When the post of radiographer is not in terms of pay scale as that of Statistician, the petitioner cannot make any claim on the post of Statistician as a matter of right. It is of-course open to the Government to relax the condition and consider the petitioner's case for appointment. In the impugned communication issued by the first respondent, it has been held that the petitioner's request for promotion to the post of Statistician is not feasible for consideration as relaxation of rule cannot be done in a routine manner and wrong procedure cannot be cited as precedent. The impugned communication is in consonance with the aforesaid circular and the stand taken by the first respondent cannot be said to be arbitrary or perverse or illegal. No case for interference has been made out. If the authority decides to fill up the vacancies in the post of Statistician through direct recruitment, the petitioner can very well participate in the said recruitment process provided he fulfils the conditions set out in the proposed notification. The dismissal of this writ petition will not come in the way.



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4. The Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

13.04.2023

Index : Yes / No

Internet : Yes/ No

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To

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