



WEB COPY



W.P.No.7785 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2024

CORAM:

THE HON'BLE MR.D.KRISHNAKUMAR
ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.P.No.7785 of 2023 and
W.M.P.No.7996 of 2023

1. G.Deepa
2. Sugan
3. Hemanthkumar
4. A.Kalaiarasi

... Petitioners

-VS-

1. Principal Secretary to Government
(Health & Family Welfare),
Department of Health and Family Welfare,
Secretariat, Chennai-600 009.
2. Director
Directorate of Public Health and Preventive Medicine,
359, Anna Salai, DMS Complex,
Teynampet, Chennai-600 006.
3. Director,
Medical and Rural Health Services,
Teynampet, Chennai-600 006.
4. Director,
Director of Medical Services,
Chepauk, Chennai.



W.P.No.7/2023

5. Medical Services Recruitment Board (MRB),

Rep. by Member Secretary,

7th Floor, DMS Building,

359, Anna Salai, Teynampet,

Chennai-600 006.

... Respondents

(R5 impleaded as per order dated 05.08.2024)

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration, declaring the G.O.(Ms) No.276 Health and Family Welfare (C2) Department dated 01.09.2022 in so far it excludes the candidates who possessed Degree of Bachelor of Optometry as an eligible criteria for the recruitment in the post of Ophthalmic assistant is illegal and arbitrary and consequently the notification issued by the 2nd respondent in Notification No.02/ MRB / 2023 dated 17.02.2023 is illegal in so far as it fails to include the Bachelor of degree in Bachelor of Optometry as qualification for the recruitment to the post of ophthalmic Assistant in Tamil Nadu Medical Services Recruitment Board and consequently direct the first respondent to consider the petitioners for the post of Ophthalmic Assistant, with terminal and monetary benefits, by suitable amending the Recruitment Rules in the Medical Service Recruitment Board by including the degree of Optometry as educational qualification with Diploma in Optometry is amended in the Amended Recruitment Rules dated 01.09.2022.

For Petitioners : Mr.M.Gnansekar
For R1 to R4 : Mrs.M.Sneha, Spl. Counsel
For F5 : Mr.L.Murugavelu

ORDER

(By Hon'ble Acting Chief Justice)

This Writ Petition has been filed to declare the G.O.(Ms) No.276, Health and Family Welfare (C2) Department dated 01.09.2022 insofar as it excludes the



W.P.No.71 of 2023

candidates, who possessed Degree of Bachelor of Optometry as an eligible criteria for the recruitment in the post of Ophthalmic Assistant is illegal and arbitrary and consequently, the notification issued by the 2nd respondent in Notification No.02/MRB/2023 dated 17.02.2023 is illegal insofar as it fails to include the Bachelor of degree in Bachelor of Optometry as qualification for the recruitment to the post of ophthalmic Assistant in Tamil Nadu Medical Services Recruitment Board and consequently direct the first respondent to consider the petitioners for the post of Ophthalmic Assistant, with terminal and monetary benefits, by suitably amending the Recruitment Rules in the Medical Service Recruitment Board by including the degree of Optometry as educational qualification with Diploma in Optometry as amended in the Amended Recruitment Rules dated 01.09.2022.

2. In Paragraph No.13 of the counter affidavit dated 22.08.2024 filed by the 3rd respondent, it has been stated as follows:

“13. With reference to the averments made in Para 15th of the affidavit, it is submitted that all applicants are eligible to apply to the post of Ophthalmic Assistant, as per the amendment issued vide G.O.(Ms) No.276, Health and Family Welfare Department dated 01.09.2022 only unless the rule has been amended, no persons who possesses other than the qualification in G.O.(Ms) No.276, Health and Family Welfare Department dated 01.09.2022 are eligible to the post of Ophthalmic Assistant. Moreover, in Tamil Nadu Government Servants (Conditions of Service) Act, 2016, it has been stated as follows:



W.P.No.71 of 2024

25. Explanation II:

In cases where the special rules prescribe a diploma in a particular subject qualification then a degree in that subject shall be deemed to be a higher qualification.”

3. Learned counsel for the petitioners, while not disputing the fact regarding the eligibility of the petitioners to apply for the post of Ophthalmic Assistant, submitted that it would suffice that the Writ Petition may be closed, by recording Paragraph No.13 of the counter affidavit.

4. In view of the submissions made by the parties, we are of the view that no further orders are required to be passed in this Writ Petition. Accordingly, this Writ Petition is closed, recording Paragraph No.13 of the counter affidavit (extracted supra). No costs. Consequently, connected Miscellaneous Petition is also closed.

[D.K.K.,ACJ.]

[M.J.R,J.]

26.09.2024

Index: Yes / No

Internet: Yes / No

Speaking Order/Non Speaking Order
ar



W.P.No.71 of 2022

WEB COPY

To:

1. The Principal Secretary to Government
(Health & Family Welfare),
Department of Health and Family Welfare,
Secretariat, Chennai-600 009.
2. The Director
Directorate of Public Health and Preventive Medicine,
359, Anna Salai, DMS Complex,
Teynampet, Chennai-600 006.
3. The Director,
Medical and Rural Health Services,
Teynampet, Chennai-600 006.
4. The Director,
Director of Medical Services,
Chepauk, Chennai.



WEB COPY



W.P.No.7785 of 2023

HON'BLE ACTING CHIEF JUSTICE,
AND
M.JOTHIRAMAN,J.,
ar

W.P.No.7785 of 2023

26.09.2024