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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.10.2024

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THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.Nos.187, 192, 198, 207, 217, 224 of 2021 and
W.M.P.Nos.257, 263, 266, 271, 286, 291 of 2021

W.P.No.187 of 2021

B.Devanathan

... Petitioner

Vs.

1.The Principal Secretary to Government,
Health and Family Welfare Department,
Fort St. George, Chennai 09.

2.The Director of Indian Medicine & Homeopathy,
Arumbakkam, Chennai 106.

3.The District Siddha Medical Officer,
Government District Headquarters Hospital,
Cuddalore.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records in pursuant to the impugned order issued by the 2nd respondent in proceedings Na.Ka.No.17306/Ni2/1/2019 dated 11.05.2020 and quash the same and consequently, direct the respondents to absorb the petitioner as Multi Purpose Workers in the Department of Indian Medicine and Homeopathy including Yoga and Naturopathy Life Style Clinics



established at all District Headquarters Hospitals and Modern Medical College Hospitals under G.O.Ms.No.257, Health & Family Welfare (IM2-1) Department dated 05.11.2013 by regularizing his service.

For Petitioner : Mr.R.Prem Narayan

For Respondents : Mr.K.Tippu Sulthan, GA

COMMON ORDER

These Writ Petitions have been filed for quashment of the impugned order passed by the 2nd respondent in proceedings Na.Ka.No.17306/Ni2/1/2019 dated 11.05.2020 and consequently, to direct the respondents to absorb the petitioners as Multi Purpose Workers in the Department of Indian Medicine and Homeopathy including Yoga and Naturopathy Life Style Clinics established at all District Headquarters Hospitals and Modern Medical College Hospitals under G.O.Ms.No.257, Health & Family Welfare (IM2-1) Department dated 05.11.2013 by regularizing their service.

2. Heard the learned counsel for the petitioners and the learned Government Advocate for the respondents and also perused the materials available on record.



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3.The case of the petitioners herein is similar to that of the dispute which arose in the Writ Petitions in W.P.Nos.31902 & 27596 of 2017 (*S.Nagaraj Vs. the Principal Secretary to Government and others*). In the said Writ Petitions, this Court has passed the following order:

“5.The petitioners have been initially appointed as Multipurpose Workers in terms of G.O.Ms.No.268 dated 01.09.2005, by which centres had been created for the purpose of prescribing Indian medicines, such as Siddha, Unani, Ayurvedha, Homeopathy, Naturopathy and Yoga under National Rural Health Mission. Subsequently, from October, 2015, the Multipurpose Workers were engaged on full time basis for 6 days a week. On perusal of G.O.Ms.No.257 dated 05.11.2013, it was issued for establishing Yoga and Naturopathy life style clinics at all District Head Quarter Hospitals and Modern Medical Colleges Hospitals, whereas G.O.No.848 dated 20.08.2014 prescribes the procedures and method of selection in respect of Assistant Medical Officer (yoga and Naturopathy), Therapeutic Assistant and Multipurpose



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Workers.

6.It is pertinent to mention here that the Apex Court in the case of Excise Superintendent, Malkapatnam, Krishna District, Andhra Pradesh Vs. K.B.N.Visweshwara Rao, reported in 1996 (6) SCC 216, held that recruitment through Employment Exchange is not the only source. It is a settled legal proposition that no person can be appointed even on a temporary or adhoc basis without inviting applications from all eligible candidates. If any appointment is made by merely inviting names from the employment exchange or putting a note on the notice board etc. that will not meet the requirement of Article 14 and 16 of the Constitution of India as it deprives the candidates, who are eligible for the post from being considered.

7.At this juncture, learned counsel for the petitioners produced a copy of the judgment dated 27.09.2018, rendered by a Division Bench of this Court in W.A.No.2152 of 2018, in which, it was ordered to give some weightage to candidates already working, while filling up any notified vacancies in future.

8.In the case on hand, it is no doubt true that the petitioners were brought on full time basis on daily wage basis for 6 days per week from 2015. In view of the afore-



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stated position, these writ petitions are disposed, with a direction to the respondents to give weightage of marks to these persons, while issuing Notification to fill up the notified posts in future and in the event of the petitioners being found eligible for the posts to be notified in future, they can also participate and compete with others with the benefit of weightage of marks to be awarded by the respondents. No costs. Consequently, connected Miscellaneous Petitions are closed.”

4. The subject matter in issue in these Writ Petitions is also similar to that of the earlier Writ Petitions filed in W.P.Nos.31902 & 27596 of 2017, in which the aforesaid order has been passed. Since the petitioners are also similarly placed as that of the petitioners in W.P.Nos.31902 & 27596 of 2017, their case would also have the similar line of appreciation involved in the above Writ Petitions. Hence, they are also entitled to the same relief as already granted to the other similarly placed persons in the earlier judicial order.

5. In the light of the order passed by this Court in the Writ



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Petitions as stated supra, these Writ Petitions are disposed of with a direction to the respondents to give weightage of marks to these persons, while issuing Notification to fill up the notified posts in future and in the event of the petitioners being found eligible for the posts to be notified in future, they can also participate and compete with others with the benefit of weightage of marks to be awarded by the respondents. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
vkr

04.10.2024

To

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