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W.P.No.22377 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 14.08.2024

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**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH**

W.P.No.22377 of 2024

and

W.M.P.Nos.24371 & 24372 of 2024

M.Jayaprakash

.. Petitioner

**Vs.**

- 1.The Member Secretary,  
Medical Services Recruitment Board (MRB),  
7<sup>th</sup> floor, DMS Building,  
No.359, Anna Salai, Teynampet,  
Chennai – 600 006.
- 2.The Chairman,  
Medical Services Recruitment Board (MRB),  
7<sup>th</sup> floor, DMS Building,  
No.359, Anna Salai, Teynampet,  
Chennai – 600 006.
- 3.The Secretary to Government,  
Health & family welfare Department,  
Fort St. George,  
Chennai – 600 009.
- 4.The Director,  
Directorate of Medical Education,  
Poonamallee High Road,  
Chennai – 600 010.



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5.The Director of Medical and Rural Health Services,  
DMS Campus,  
Teynampet, Chennai – 600 006.

.. Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 1<sup>st</sup> respondent herein relating to his impugned order in CV Intimation No.10/MRB/2022-2 dated 29.07.2024 and quash the same and consequentially direct the respondents 1 & 3 authorities to grant due incentive 5 marks instead of 2 marks to the petitioner for the COVID-19 duty rendered by the petitioner in additional to the marks to be scored by the petitioner in Notification No.10/MRB-2022 dated 10.08.2022 examination and grant preference in filling up the regular vacancies of Pharmacist to the petitioner in the department of respondents 1 to 4.

|                |   |                                         |
|----------------|---|-----------------------------------------|
| For petitioner | : | Mr.K.Krishnan                           |
| For RR 1 & 2   | : | Mr.L.Murugavelu<br>Standing Counsel     |
| For RR 3 to 5  | : | Mrs.M.Sneha<br>Special Standing Counsel |

### **ORDER**

This writ petition has been filed challenging the impugned selection list published by the Medical Services Board and for a consequential direction directing the respondents to grant 5 marks as incentive marks



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for the COVID 19 duty rendered by the petitioner in accordance with G.O.Ms.No.107, Health and family welfare (C1) department, dated 26.04.2024 and add the same to the marks obtained by the petitioner in the written examination and for a consequential direction to select and appoint the petitioner to the post of Pharmacist.

2.Heard the learned counsel for the petitioner, learned Standing Counsel for respondents 1 & 2 and the learned Special Standing Counsel for respondents 3 to 5.

3.The short issue that arises for consideration in this case is as to whether the petitioner is entitled to the incentive marks as per G.O.Ms.No.107, Health and family welfare (C1) department, dated 26.04.2024 and as to whether the same will have to be added to the marks obtained by the petitioner in the written examination.

4.The Notification dated 10.08.2022 was issued by the Medical Services Recruitment Board (MRB) by inviting applications for direct recruitment on temporary basis to the post of Pharmacist in the Tamil



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Nadu Medical Subordinate Service. The educational qualification prescribed was that the candidate must possess a Diploma in Pharmacy or Bachelor of Pharmacy or Pharm.D. The candidate must also be registered with the Tamil Nadu Pharmacy Council.

5.The process of awarding incentive marks started after the Government issued G.O.Ms.No.278 dated 17.08.2023 pursuant to the directions issued by the Hon'ble Supreme court, Notification of the Central Government dated 03.05.2021 and the interim order passed by this Court in W.P.No.20742 of 2023. Initially it covered only the Doctors / Medical Officers who worked in the Government Medical Institutions during the COVID pandemic. Thereafter, it was extended to others and by virtue of issuing G.O.Ms.No.107, Health and family welfare (C1) department, dated 26.04.2024, the Pharmacists who have worked in the Government Medical Institutions during the COVID pandemic period were covered.

6.The petitioner submitted his application and he also wrote the written examination. The petitioner obtained 63.43 marks in the written



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examination. The petitioner belonged to Backward Class (BC) community.

7.The specific case of the petitioner is that he had worked in the Primary Health Centre, Mangalam Block, Thiruvannamalai District, during the period from 01.03.2020 to 29.07.2020, 31.07.2020 to 29.06.2021 and from 01.07.2021 to 31.03.2022 (25 months) as Pharmacist. Therefore, the petitioner is claiming for incentive marks as per G.O.Ms.No.107, Health and family welfare (C1) department, dated 26.04.2024.

8.The petitioner was given only 2 marks towards incentive marks. According to the petitioner, he is entitled for 5 marks as incentive marks. The petitioner is desperately wanting the incentive marks to be added in order to bring himself within the zone of consideration since he is falling short of the cut off mark fixed by the Board at 65.58 marks.

9.The main ground that was urged on the side of the respondents is that the COVID duty certificate has been signed by the Block Medical



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Officer and counter signed by the District Health Officer and whereas, the requirement under G.O.Ms.No.107, Health and Family Welfare (C1) Department, dated 26.04.2024 is that it must be counter signed by the Deputy Director of Health Services.

10.It is true that G.O.Ms.No.107, Health and Family Welfare (C1) Department, dated 26.04.2024 states that the counter signature must be obtained from the Deputy Director of Health Services and whereas, the counter signature has been affixed by the District Health Officer. The District Health Officer is in the cadre of Deputy Director of Health Services. That apart, through proceedings dated 08.05.2024, the Director of Public Health and Preventive Medicine, Chennai, has clarified that the certificate can be counter signed by the concerned District Health Officers. This clarity was given by referring to G.O.Ms.No.107, Health and Family Welfare (C1) Department, dated 26.04.2024. It is therefore, quite apparent that the COVID duty certificate issued is perfectly in line with the concerned Government Order and it does not lack credibility just because it has been counter signed by the District Health Officer, who is the authorized person as per the proceedings dated 08.05.2024.



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11.In view of the above, this Court holds that the petitioner is entitled for 5 marks as incentive marks, since, the petitioner has served for two years and one month (25 months) as a Pharmacist during the COVID-19 pandemic and which is evident from the COVID duty certificate issued by the competent authorities. The petitioner has secured 63.43 marks in the written examination and the petitioner comes under the Backward Class (BC) community. The petitioner was granted only 2 marks as incentive marks. The cut off mark for Backward Class (BC) community candidate is 65.58 marks. Since the petitioner will be entitled for 5 marks as incentive marks, he will get a total of 68.43 marks, which will bring the petitioner within the zone of consideration.

12.In the result, there shall be a direction to the 1<sup>st</sup> respondent to add 5 marks as incentive marks to the petitioner along with the marks obtained by the petitioner in the written examination. This direction shall be complied forthwith. The same shall be communicated to the 5<sup>th</sup> respondent. The 5<sup>th</sup> respondent shall permit the petitioner to participate in the counseling if the petitioner is otherwise eligible and consider the



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appointment of the petitioner to the post of Pharmacist. Accordingly, this Writ Petition is allowed with the above directions. Consequently, the connected Miscellaneous Petitions are closed. No costs.

**14.08.2024**

**(2/5)**

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Index : Yes / No  
Internet : Yes / No  
Neutral Citation : Yes / No

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**N.ANAND VENKATESH, J.**

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- 4.The Director,  
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- 5.The Director of Medical and Rural Health Services,  
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