



W.P.No.23607 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 14.08.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.23607 of 2024

and

W.M.P.Nos.25825 & 25827 of 2024

1.N.Vennila

2.B.Muhamed Ibrahim

.. Petitioners

Vs.

1.The Secretary to Government of Tamil Nadu,
Health and family welfare Department,
Fort St. George,
Chennai – 600 009.

2.The Director,
Directorate of Medical Education,
Poonamallee High Road,
Chennai – 600 010.

3.The Director of Public Health and Preventive Medicines,
DMS Campus, Teynampet,
Chennai – 600 006.

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

5.The Chairman,
Medical Services Recruitment Board (MRB),



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7th floor, DMS Building,
358, Anna Salai, 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 5th respondent viz., the Medical Services Recruitment Board, in its proceedings PSL No.10/MRB/2022 dated 05.08.2024 and quash the same insofar as it does not include the names of the petitioners and consequently direct the respondents to grant 5 incentive marks to the petitioners for the COVID 19 duties rendered by them and appoint them as Pharmacists.

For petitioners	:	Mr.V.Vijayashankar
For RR 1 to 4	:	Mrs.M.Sneha Special Standing Counsel
For R5	:	Mr.L.Murugavelu Standing Counsel

ORDER

This writ petition has been filed challenging the impugned selection list published by the Medical Services Recruitment Board and for a consequential direction directing the respondents to grant 5 marks each as incentive marks for the COVID 19 duty rendered by the petitioners in



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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 petitioners in the written examination and for a consequential direction to select and appoint the petitioners to the post of Pharmacists.

2.Heard the learned counsel for the petitioners, learned Special Standing Counsel for respondents 1 to 4 and the learned Standing Counsel for 5th respondent.

3.The short issue that arises for consideration in this case is as to whether the petitioners are 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 petitioners 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 Nadu Medical Subordinate Service. The educational qualification



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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 petitioners submitted their applications and they also wrote the written examination. Both the petitioners obtained 66.41 marks in the written examination. The 1st petitioner belonged to Backward Class (BC)



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community and the 2nd petitioner belonged to Backward Class (Muslim Community).

7.The specific case of the petitioners is that the 1st petitioner had worked at Government Primary Health Centre, Palapatti during the period from 22.03.2020 to 30.04.2022 (25 months) as Pharmacist and the 2nd petitioner had worked at Government Primary Health Centre, K.Keeranur – 624 616, Oddanchatram (Tk.) during the period from 20.03.2020 to 31.09.2022 (31 months) as Pharmacist. Therefore, the petitioners are claiming for incentive marks as per G.O.Ms.No.107, Health and family welfare (C1) department, dated 26.04.2024.

8.Each of the petitioners were given only 2 marks towards incentive marks. According to the petitioners, they are entitled to 5 marks each as incentive marks. The petitioners are desperately wanting the incentive marks to be added in order to improve their chances during the counseling to get appointment in their chosen place.



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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 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



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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 petitioners are entitled for 5 marks each as incentive marks, since, the 1st petitioner has served for two years and one month (25 months) and the 2nd petitioner has served for two years and seven months (31 months) as Pharmacists during the COVID-19 pandemic and which is evident from the COVID duty certificates issued by the competent authorities. Both the petitioners have secured 66.41 marks in the written examination and the 1st petitioner comes under the Backward Class (BC) community and the 2nd petitioner comes under the Backward Class (Muslim) (BCM) community. The petitioners were granted only 2 marks as incentive marks. The cut off mark for Backward Class (BC) community candidate is 65.58 marks. Since each of the petitioners will be entitled for 5 marks as incentive marks, both of them will get a total of 71.41 marks, which will bring the petitioners within the zone of consideration.

12. In the result, there shall be a direction to the 5th respondent to



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add 5 marks as incentive marks to each of the petitioners along with the marks obtained by the petitioners in the written examination. This direction shall be complied forthwith. The same shall be communicated to the 4th respondent. The 4th respondent shall permit the petitioners to participate in the counseling if the petitioners are otherwise eligible and consider the appointment of the petitioners to the post of Pharmacist. Accordingly, this Writ Petition is allowed with the above directions. Consequently, the connected Miscellaneous Petitions are closed. No costs.

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(5/5)

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

To

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Health and family welfare Department,
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Chennai – 600 009.

2.The Director,



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5.The Chairman,
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7th floor, DMS Building,
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N.ANAND VENKATESH, J.



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