



W.P.No.23959 of 2024

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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.23959 of 2024
and W.M.P.No.26227 of 2024

R.Revathi

.. Petitioner

Vs.

- 1.The Member Secretary,
Medical Services Recruitment Board (MRB),
7th floor, DMS Building,
No.359, Anna Salai, Teynampet,
Chennai – 600 006.
- 2.The Chairman,
Medical Services Recruitment Board (MRB),
7th 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.
- 5.The Director of Medical and Rural Health Services,
DMS Campus, Teynampet, Chennai – 600 006.

.. Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to award incentive 2 marks to the petitioner for the COVID-10 duty rendered by the petitioner in addition to the marks to be scored by the petitioner in Notification No.10/MRB-2022 dated 10.08.2022 examination in accordance with G.O.Ms.No.107, Health and family welfare (C1) department, dated 26.04.2024 for the selection to the post of Pharmacist and consequently select and appoint the petitioner as Pharmacist.

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

ORDER

This writ petition has been filed for the issue of writ of mandamus directing the respondents 1 to 3 to grant 2 marks as incentive marks 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 consequent direction to select and appoint the petitioner to the post of Pharmacist.



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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 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.



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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 her application and she also wrote the written examination. The petitioner obtained 66.77 marks in the written examination. The petitioner belonged to Backward Class (BC) community.

7.The specific case of the petitioner is that she had worked at V.O.C. Port, Authority Hospital, Tuticorin, during the period from



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04.03.2020 to 04.09.2020 (6 months and 1 day) 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 not given any marks towards incentive marks. According to the petitioner, she is entitled to 2 marks as incentive marks. The petitioner is desperately wanting the incentive marks to be added in order to improve her chances during the counseling to get appointment in their chosen place.

9.The main ground that was urged on the side of the respondents is that the petitioner was working in the V.O.C. Port, Authority Hospital, Tuticorin and the COVID duty certificate has been signed by the Chief Medical Officer and counter signed by the District Health Officer and whereas, it has to be counter signed only by the Joint Director of Health Services. That apart, V.O.C. Port, Authority Hospital, Tuticorin, may not come within the purview of the Government Medical Institution as stipulated under G.O.Ms.No.107, Health and Family Welfare (C1) Department, dated 26.04.2024.



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10.The petitioner was working as a Pharmacist in the V.O.C. Port, Authority Hospital, Tuticorin. This Hospital comes within the scope of a Government Medical Institution, since the COVID duty certificate has been counter signed by the District Health Officer, Thoothukudi. This Hospital comes under the Municipality and is very much a Government Medical Institution without any scope for doubt. The signature and the counter signature have been made by the competent persons as per G.O.Ms.No.107, Health and Family Welfare (C1) Department, dated 26.04.2024.

11.In view of the above, this Court holds that the petitioner is entitled for 2 marks as incentive marks, since, the petitioner has served for six months and one day 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 66.77 marks in the written examination and the petitioner comes under the Backward Class (BC) community. The cut off mark for Backward Class (BC) community candidate is 65.58 marks. Since the petitioner will be entitled for 2 marks as incentive marks, she will get a total of 68.77 marks.



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12. In the result, there shall be a direction to the 1st respondent to add 2 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 5th respondent. The 5th respondent shall permit the petitioner to participate in the counseling if the petitioner is otherwise eligible and consider the appointment of the petitioner to the post of Pharmacist. Accordingly, this Writ Petition is allowed with the above directions. Consequently, the connected Miscellaneous Petition is closed. No costs.

14.08.2024

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

To

1. The Member Secretary,
Medical Services Recruitment Board (MRB),
7th floor, DMS Building,
No.359, Anna Salai, Teynampet, Chennai – 600 006.



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N.ANAND VENKATESH, J.

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- 2.The Chairman,
Medical Services Recruitment Board (MRB),
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- 3.The Secretary to Government,
Health & family welfare Department,
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