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WP.No.25208 of 2024

In the High Court of Judicature at Madras

Dated : 04.10.2024

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.25208 of 2024 &
WMP.No.27532 of 2024

S.Karthick

...Petitioner

Vs

1.The Directorate General of
Health Services, Ministry of
Health & Family Welfare,
Nirman Bhawan, New Delhi-11.

2.The Director, BCG Vaccine
Laboratory, Guindy,
Chennai-32.

3.The Administrative Officer,
BCG Vaccine Laboratory,
Guindy, Chennai-32.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus directing respondents 2 and 3 to provide the experience certificate to the petitioner based on his application dated 15.11.2023 and consequentially direct the respondents to consider the name of the petitioner for the next level of selection process and for appointment to the post of Laboratory Attendant.



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For Petitioner : Mr.K.Rajendra Prasad
For Respondents : Mr.K.S.Jayaganeshan, SPC

ORDER

This writ petition has been filed seeking for the issuance of a Writ of Mandamus directing respondents 2 and 3 to provide experience certificate to the petitioner based on his application dated 15.11.2023 and for a consequential direction to the respondents to consider the name of the petitioner for appointment to the post of Laboratory Attendant.

2. Heard the learned counsel for the petitioner and the learned Senior Panel Counsel appearing for the respondents.

3. When the matter came up for hearing on 27.9.2024, this Court passed the following order :

"This writ petition has been filed seeking issuance of a writ of mandamus directing respondents 2 and 3 to provide experience certificate to the petitioner based on the application submitted by him on 15.11.2023 for appointment to the post of Laboratory Attendant.

2. When the matter came up for hearing on 28.08.2024, this Court passed the following order:

'Mr.K.S.Jaya Ganeshan, learned Senior Panel Counsel, takes notice for 1st respondent. Notice to the respondents 2 and 3 returnable by 11.09.2024. Private



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notice is also permitted.

2. The grievance of the petitioner is that the petitioner is already in the zone of consideration for selection to the post of Laboratory Attendant. The 2nd respondent will have to provide the experience certificate based on the experience gained by the petitioner in the 2nd respondent institution. On failure of the 2nd respondent to give the experience certificate, the candidature of the petitioner is in peril. In view of the same, there shall be a direction to the respondents not to fill up the post of Laboratory Attendant in the 3rd respondent Laboratory till 11.09.2024.

3. Post this case under the caption "for orders" on 11.09.2024.'

3. The respondents have filed counter affidavit.

4. Heard Mr.K.Rajendra Prasad, learned counsel for petitioner and Mr.K.S.Jaya Ganeshan, learned Senior Panel Counsel appearing for first respondent.

5. The notification dated 10.11.2023 has been issued by the first respondent to fill up various posts which also includes the post of Laboratory Attendant. The educational qualification and the experience that has been prescribed for participating in the selection is as follows:

'Essential :-

i) Matriculation pass from a recognized Board or equivalent.

ii) One year Training Certificate in Laboratory techniques and animal care from Government Institute or recognized Institute.

Desirable:- Diploma in Medical Laboratory technology from recognized Institute.'

6. It is quite evident from the counter filed by the respondents that the 6. It is quite evident from the



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counter filed by the respondents that the petitioner had scored 41 marks out of 240 and had taken 17.1% in the computer based examination. The notification as such does not prescribe any minimum marks/minimum percentage that has to be secured by a candidate. Based on the mark that was secured by the petitioner, he has been placed at Sl.No.19. Admittedly, the petitioner was qualified insofar as the educational qualification is concerned. The entire dispute is now revolving around the one year training certificate which was not submitted by the petitioner. The petitioner has, however, mentioned in the application as if he has such a certificate issued by the concerned authority.

7. The first respondent proceeded to select one Farhana Tabassum based on the marks secured by her and based on the certificate submitted by her. However, subsequently, it came to light that the certificate submitted was a fake certificate and therefore, the selection of the said Farhana Tabassum has been cancelled. It is also not in dispute that none of the persons placed above the petitioner possess the required qualification. Therefore, the petitioner is claiming that his candidature must be considered.

8. The experience certificate that has been given in the name of the petitioner by the third respondent dated 28.08.2024 states that the experience certificate cannot be claimed as a training certificate since the petitioner was working on contract basis. In view of the same, the petitioner is not able to fulfil the experience qualification as prescribed under the notification.

9. When the matter was taken up for hearing today, learned counsel for petitioner produced yet another experience certificate that was issued in the name of one S.Vignesh by the third respondent.



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Learned counsel submitted that the said S.Vignesh is also a similarly placed person like the petitioner and therefore, there is no reason to deny the experience certificate to the petitioner. The other ground raised is that the petitioner is admittedly working in the third respondent institute and he has sufficient experience. Therefore, his status on contract basis will not have any bearing since what is insisted is only an experience and the petitioner has fulfilled that qualification. Consequently, the petitioner claims that the third respondent must give a experience certificate as was given to S.Vignesh.

10. Learned Senior Panel Counsel seeks for some time to take instructions in this regard. Based on the instructions received by learned Senior Panel Counsel, final orders can be passed in this writ petition.

Post this writ petition under the caption 'for passing final orders' on 04.10.2024. Interim order already granted by this Court vide order dated 28.08.2024 is extended till then."

4. When the matter is taken up for hearing today, the learned Senior Panel Counsel appearing on behalf of the respondents submitted that the certificate was given to the said Mr.Vignesh since he was only applying for the post of Constable (Kenneiman) in Border Security Force and that therefore, the same cannot be equated to the case of the petitioner, who was applying to the post of Laboratory Attendant.



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5. On considering the submissions made on either side and perusing the materials available on record, it is seen that the petitioner, on the date of submitting the application, represented as if he is in possession of one year training certificate. Only after the application was submitted, the petitioner started the process of getting the certificate. Since he was not able to get the certificate, he approached this Court and sought for appropriate directions.

6. The petitioner must have stated in the application that he is not in possession of the one year training certificate. Had the petitioner come out with the truth and later expressed his grievance that he is entitled for such a certificate, but he was not given such a certificate, this Court would have come to the rescue of the petitioner, if he is otherwise entitled to. Since the petitioner has not stated the correct facts in the application, that, by itself, is a ground to reject the application submitted by the petitioner. In view of the same, it is not necessary for this Court to go into the other issues that have been raised in this writ petition.

7. The steps taken by the respondents to fill up the post of Laboratory Attendant did not fructify. It is left open to the first respondent to start a fresh process for appointment to the post of



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Laboratory Attendant. It is also left open to the petitioner to participate in the same if the petitioner possesses requisite qualification. Except giving this clarity, no further orders can be passed in this writ petition.

8. The writ petition is disposed of in the above terms. No costs. Consequently, the connected WMP is closed.

04.10.2024

To

- 1.The Directorate General of Health Services, Ministry of Health & Family Welfare, Nirman Bhawan, New Delhi-11.
- 2.The Director, BCG Vaccine Laboratory, Guindy, Chennai-32.
- 3.The Administrative Officer, BCG Vaccine Laboratory, Guindy, Chennai-32.

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