



WP.No.33621 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.33621 of 2023 and
W.M.P.Nos.33448 & 33450 of 2023

Chandramohan J

...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.



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

5. The Director of Medical and
Rural Health Services,
DMS Campus,
Teyampet,
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 first respondent herein relating to his impugned order in CV Intimation No.10/MRB/2022 dated 31.10.2023 and quash the same and consequentially direct respondents 1 to 3 authorities to grant due incentive marks for the Covid-19 pandemic duty rendered by the petitioner in addition to the marks to be scored by the petitioner in MRB-2023 examination and grant preference in filling up the regular vacancies of Pharmacist to the petitioner in the department of the respondents 1 to 4.

For Petitioner : Mr.K.Krishnan

For Respondents

For R1 & R2 : Mr.L.Murugavelu

For R3 to R5 : Mr.M.Brindan,

Additional Government Pleader

ORDER



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This writ petition has been filed for direction to the respondents to grant incentive marks for the Covid-19 pandemic service rendered by the petitioner in addition to the marks to be secured by the petitioner in the Medical Recruitment Board-2023 examination and grant preference in filling up the regular vacancies of Pharmacist to the petitioner.

2. The petitioner is a diploma holder in Pharmacy and he is qualified for the post of Pharmacist. After completion of his diploma, he joined as Pharmacist in the Primary Health Centre at Emergency care and recovery centre, Tiruvannamalai and also he was appointed under various scheme. While being so, he was duly engaged during Covid-19 pandemic situation in various places under various units. During Covid-19, the Doctors, Nurses, Health Inspectors, Lab Technicians and Pharmacists were acted as front line warriors and treated various patients. In fact, some of the Pharmacists, while they were working in Covid-19 duty, died due to Corona virus.

3. While being so, the Medical Services Recruitment Board issued notification calling for applications for the examination to the post of



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Pharmacist to fill up 986 vacancies. The petitioner applied for the said post and he had written the examination on 26.04.2023. The Government of India made an announcement that the persons who had working during Covid-19, shall be awarded incentives marks. In fact, the Central Government issued notification dated 03.05.2021 and recommended the State/Union Territory Governments to consider giving preference in regular government appointments of health professionals through the respective Public Service Commission or other recruitment bodies, for those health professionals under this special scheme, who complete a minimum of 100 days of Covid-19 pandemic related duty. However, the petitioner was not given any incentive marks. Now the Medical Services Recruitment Board issued provisional selection list for certificate verification.

4. The specific submission made by the learned counsel appearing for the Medical Services Recruitment Board is that it is purely related to recruitment process based on the Recruitment Rules read with the Special Adhoc Rules governing the post as provided by the indenting authorities. Further the provision of incentive marks for having worked during the Covid-19



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is neither related to the Board nor competent issued orders.

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5. The learned Additional Advocate General appearing for the Government of Tamilnadu submitted that the Government of India has initiated a new programme called Rashtriya Bal Swasthya Karyakram (herein after called as “RBSK”), Child Health Screening and Early Intervention Services Programme under National Rural Health Mission. This programme aims at early detection and management of the 4Ds prevalent in children i.e., defects at birth, diseases in children, deficiency conditions and development delays including disabilities. It has been implemented in 31 districts of the State of Tamilnade vide G.O.(Ms)No.123, Health and Family Welfare (EAP-II/1) Department, dated 09.05.2014.

5.1. Under the said scheme, some persons were appointed through outsourcing on the contract basis. Therefore, they were not appointed exclusively to combat the Covid-19 pandemic. They had also submitted their declaration to that effect. Insofar as the incentives mark is concerned, as per G.O.(Ms).No.256 Health and Family Welfare Department dated 28.05.2021,

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the incentive amounts were granted to the Medical Officers, Staff Nurses, Health Inspectors, Lab Technician Grade-III and Basic Servants during the continuous period of April, May and June 2021. But no incentive amount was given to any Pharmacists during the Covid-19 pandemic since they were not directly contacted with the Covid-19 infected patients. Therefore, they are not entitled for any incentive marks for the duty during the Covid-19.

6. While pending other writ petitions, those who were provisionally selected and called for certificate verification, filed petitions to implead themselves as respondents, wherein the learned counsel appearing for the impleaded respondents submitted that already the entire selection process is over and the Medical Services Recruitment Board published the list of provisionally selected candidates and their certificates were already verified by the Medical Recruitment Board. If any incentive marks awarded to the candidates who were rendered service during Covid-19, their selection would be affected and as such prayed to protect their interest.

7. Heard the learned counsel appearing on either side and



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perused the material placed before this Court.

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8. Insofar as the medical recruitment to the post of Assistant Surgeons is concerned, the doctors have filed writ petitions before the Madurai Bench of this Court in W.P(MD).No.18858 of 2023. When the said writ petition was pending, after issuance of interim order, the government passed order in G.O.(Ms.)No.278 dated 17.08.2023 and ordered incentive marks to the medical officers for their service rendered during Covid-19 pandemic. Likewise, in the process of recruitment to the post of Health Inspector Grade-II post, the candidates were filed writ petition before this Court in W.P.No.20742 of 2023 and this Court granted interim order. While pending the writ petition, the government passed order in G.O.(Ms).No.299 dated 12.09.2023, thereby awarded incentive marks for the persons who rendered service during Covid-19 pandemic.

9. Further the Government also extended the benefit of incentive marks to the post of Lab Technician Grade-III, vide G.O.(D).No.1374 Health and Family Welfare (L1) Department dated 07.11.2023, in pursuant to



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the order passed by the Hon'ble Supreme Court of India in Suo Moto Writ Petition (Civil)No.3 of 2021 dated 30.04.2021. Therefore, the petitioner is also entitled for incentive marks in the recruitment process to the post of Pharmacist.

10. On perusal of the proceeding issued by the Medical Services Recruitment Board dated 31.10.2023, the impleaded respondents in other writ petitions were called for certificate verification for the post of Pharmacist. Though provisional selection list was published for certificate verification, so far no final selection list was published by the Medical Services Recruitment Board. On perusal of Government order in G.O.(D)No. 1374 Health and Family Welfare (L1) Department dated 07.11.2023, the Government awarded incentive marks in respect of the recruitment to the post of Lab Technician Grade-III as follows :-

Sl.No	Criteria	Marks to be given
1	For those who have worked in Government institutions during Covid-19 pandemic for a period of minimum of six months to one year continuously (6 to 12 months) (without break in service)	Two marks
2	For those who have worked in Government	Three



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Sl.No	Criteria	Marks to be given
	institutions during Covid-19 pandemic for a period of over one year to one and half year continuously (12+months to 18 months) (without break in service)	marks
3	For those who have worked in Government institutions during Covid-19 pandemic for a period of over one and half year to two years continuously (18+months to 24 months) (without break in service)	Four marks
4	For those who have worked in Government institutions during Covid-19 pandemic for a period of over two years continuously (over 24 months)	Five marks

Accordingly, criteria has been fixed for awarding incentive marks.

11. Though the petitioner and the similarly placed persons are working under various scheme, projects and government primary health centers, they were duly engaged for the duty during Covid-19 pandemic. In fact, they were formed a part of the team with the Medical Officers, Nurses and Health Inspectors. In fact, they were engaged on a round the clock basis to work in the primary health centers and they were actively engaged in conducting fever screening campus and taking care of sick and Covid affected patients in the government hospitals. As the lockdown kept extending the services of the petitioner and others were deployed for other purposes such as disaster management, flood mitigation and other related activities. Considering their



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services, the Government of India issued circular on the basis of the directions issued by the Hon'ble Supreme Court of India to provide incentives for health workers such as Doctors, Nurses, Health Inspectors, and other paramedical staff including Pharmacists.

12. Considering the above facts and circumstances, this Court is inclined to pass the following orders:-

(i) The respondents are directed to pass appropriate orders by fixing criteria to award incentive marks to the candidates in the recruitment process to the post of Pharmacist, for the duty rendered by them during Covid-19 pandemic, within a period of two weeks from the date of receipt of a copy of this Order.

(ii) If the petitioner is entitled for the incentive marks as per his respective duty rendered during Covid-19, he may be awarded incentive marks as per the criteria to be fixed by the Government, in addition to the marks secured by him in the Medical Services Recruitment Board Examination – 2023 and proceed further with the selection process.

(iii) If the provisionally selected candidates are not selected to the post



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of Pharmacist, they will be considered in the available vacancy.

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13. With the above directions, this writ petition is disposed of.

Consequently, connected miscellaneous petitions are closed. There shall be no orders as to costs.

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Index : Yes/No

Speaking/Non Speaking order

Neutral Citation : Yes/No

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G.K.ILANTHIRAIYAN. J,

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To

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