



W.A.(MD).No.635 of 2011

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on:12.02.2024

Delivered on: .03.2024

WEB COPY

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

AND

THE HONOURABLE Mr. JUSTICE C.KUMARAPPAN

W.A.(MD).No.635 of 2011

and

W.P(MD).No.11009 of 2009

and

W.P(MD)No.14690 and 14691 of 2010

and

M.P(MD).Nos.1 of 2009,1,1 and 2 of 2010

W.A(MD)No.635 of 2011

Tmt.P.Tamilselvi

... Appellant/Petitioner

Vs.

1.The Director of Public Health and
Preventive Medicine,
Chennai-600 006.

2.The District Employment Officer,
District Employment Exchange,
Pudukottai,
Pudukottai District.

3.The Deputy Director of Public Health
Pudukottai,
Pudukottai District.

... Respondents/Respondents

PRAYER:Writ Appeal filed under Clause 15 of Letter Patent, against the order, dated 28.10.2010 passed by this Court in W.P.(MD).No.9640 of 2010.



W.A.(MD).No.635 of 2011

W.P(MD)No.11009 of 2009

Mrs.P.Tamilselvi

... Petitioner

Vs.

1.State of Tamil Nadu,
Represented by its
Secretary to Government,
Department of Public Health,
Fort Saint George,
Chennai-600 009.

2.The Director of Public Health and
Preventive Medicine,
DMS Complex,
Chennai-600 006.

3.The Commissioner of Employment
and Training
Guindy, Chennai.

4.The Deputy Director,
Public Health Science,
Pudukottai.

5.Mrs.Angayarkanni

... Respondents/Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the 2nd respondent to cancel the appointment of the fifth respondent as Lab Technician Grade-III and to appoint the petitioner Lab Technician Grade-III and to pray all benefits from the date on which the 5th respondent has taken charge as Lab Technician Grade-III.

W.P(MD)No.14690 of 2010

Mrs.P.Tamilselvi

... Petitioner

Vs.

1.The Director of Public Health and
Preventive Medicine,
Chennai-600 006.



W.A.(MD).No.635 of 2011

2.The District Employment Officer,
District Employment Exchange,
Pudukkottai,
Pudukkottai District.

3.The Deputy Director of Public Health,
Pudukkottai, Pudukkottai District.

- 4.J.P.Dhamotharan
- 5.P.Navaladi
- 6.N.Jayabharathi
- 7.D.Hilda
- 8.P.Athirstalachumy
- 9.G.Kabildev
- 10.V.Banumathi
- 11.P.Muthulakshmi
- 12.M.Jayapriya
- 13.S.Anbarasi
- 14.S.Kannikkai Mary Mercy
- 15.D.Prabhakar
- 16.C.Subathra
- 17.V.Mary Christie
- 18.M.Y.Maria
- 19.S.Lakshmi Prabha
- 20.S.Senthilkumar
- 21.M.S.Mala
- 22.S.Subbulakshmy
- 23.C.Sivakumar
- 24.A.Senthilkumar
- 25.L.Sadagoban
- 26.S.Himala Devi
- 27.R.Partheepan
- 28.A.Sumathi

... Respondents/Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the selection of the respondents 4 to 28 as conveyed by the communication of the public information officer, office of the Director of Public Health and Preventive Medicine, Chennai-6 in Na.ka.No.107306/Pa.Tho.2/Eru.1/2009 dated 23.06.2010 and quash their selection and direct the official respondents 1 to 3 to appoint the petitioner as Laboratory Technician Grade-III from the date on which her junior was



W.A.(MD).No.635 of 2011

appointed and confer all the consequential benefits on the petitioner.

WEB COPY

W.P(MD)No.14691 of 2010

Tmt.G.Chandra

... Petitioner

Vs.

- 1.The Director of Public Health and Preventive Medicine,
Chennai-600 006.
- 2.The District Employment Officer,
District Employment Exchange,
Tiruchirapalli,
Tiruchirapalli District.
- 3.The Deputy Director of Public Health,
Tiruchirapalli,
Tiruchirapalli District.
- 4.J.P.Dhamotharan
- 5.P.Navaladi
- 6.N.Jayabharathi
- 7.D.Hilda
- 8.P.Athirstalachumy
- 9.G.Kabildev
- 10.V.Banumathi
- 11.P.Muthulakshmi
- 12.M.Jayapriya
- 13.S.Anbarasi
- 14.S.Kannikkai Mary Mercy
- 15.D.Prabhakar
- 16.C.Subathra
- 17.V.Mary Christie
- 18.M.Y.Maria
- 19.S.Lakshmi Prabha
- 20.S.Senthilkumar
- 21.M.S.Mala
- 22.S.Subbulakshmy
- 23.C.Sivakumar
- 24.A.Senthilkumar
- 25.L.Sadagoban
- 26.S.Himala Devi
- 27.R.Partheepan
- 28.A.Sumathi

... Respondents/Respondents



W.A.(MD).No.635 of 2011

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the selection of the respondents 4 to 28 as conveyed by the communication of the Public Information Officer, office of the Director of Public Health and Preventive Medicine, Chennai-6 in Na.Ka.No.107306/Pa.Tho.2/Eru.12009 dated 23.06.2010 and quash their selection and direct the official respondents 1 to 3 to appoint the petitioner as Laboratory Technician Grade III from the date on which her junior was appointed and confer all the consequential benefits on the petitioner.

For Appellant/ Petitioner in all cases	:Mr.V.Paneer Selvam, for M/s.C.S. Associates
For R1 to R3 in all cases	:Mr.A.K.Manikkam Special Government Pleader
For R4,R6toR11,R15 R21,R22,R24toR26	:Mr.K.Govindarajan
For R12,R13,R17to R21,R23,R27,R28	:No appearance

COMMON JUDGMENT

DR G. JAYACHANDRAN,J.
AND
C.KUMARAPPAN,J.

The issue involved in all the above matters are entwined to each other. Hence, all the above matters are taken together for common disposal.

2.According to the petitioners, they are the aspirants for the post of Lab Technician Grade-III. It appears that one Mrs.P.Tamilselvi, who is the petitioner in W.P.(MD)No.11009 of 2009, has received a call letter for interview dated 14.05.2009 for the selection of 172



W.A.(MD).No.635 of 2011

posts of Lab Technician Grade-III. It is her contention that one Angayarkanni, who is the fifth respondent in W.P(MD)No.11009 of 2009 was selected and she was junior to her as per the employment registration seniority. Therefore, she sought for the relief to cancel the appointment of the fifth respondent viz., Mrs.Angayarkanni.

3.She has also filed another writ petition in W.P(MD)No.14690 of 2010 on the very same ground and also on the basis of further details which she received through Right to Information Act. Here again she sought for the relief to quash the selection made in Na.Ka.No.107306/Pa.Tho.2/Eru.1/2009 dated 23.06.2010, as some of the selectees are junior to her.

4.It is pertinent to mention here that similarly placed person one G.Chandra has also filed a writ petition in W.P(MD)No.14691 of 2010 with similar relief as sought for by Mrs.Tamilselvi, in W.P(MD)No.14690 of 2010 wherein she has also stated that she is senior to all the selectees, as per the employment seniority.

5.The learned counsel appearing on behalf of the petitioner would vehemently contend that the appointment for the post of Lab Technician Grade-III was all along made based upon the employment exchange seniority. However, without giving due regard to the petitioner's seniority, the second respondent has appointed the fifth



W.A.(MD).No.635 of 2011

respondent and also the other respondents, under Na.Ka.No. 107306/Pa.Tho.2/Eru.1/2009, dated 23.06.2010. Such act is arbitrary and soaked with illegality.

6.Per contra, the learned Special Government Pleader would vehemently contend that the petitioner has been called for interview vide call letter, dated 14.05.2009. Even according to such interview letter, it has been specifically intimated to the aspirants to come with the required certificates to participate in the interview. It is the further submission of the learned Special Government Pleader that this petitioner did not fair well and therefore, she has not been selected and that all the selectees were appointed based on their interview marks. Hence, contended that there is no arguable points in the instant writ petition.

7.It also appears that while 2009 notification was under challenge, the second respondent has also called for a subsequent recruitment. While so, when this petitioner's name was not sponsored by the employment. She moved a writ petition in W.P(MD)No.9640 of 2010, in which, there was an interim direction to the second respondent to sponsor her name for interview. In pursuance of the interim order, a call letter was also issued to her and it appears that she has participated in the second interview too. However, ultimately the main writ petition was dismissed on the ground that as on the



W.A.(MD).No.635 of 2011

date of sponsoring the candidate under the Community Roaster, the petitioner's seniority has not reached as her registration in Pudukottai District, was dated 21.09.1995. Whereas, according to the Community Roaster, the relevant cut-of date applicable for the petitioner was only 30.12.1994. Hence, the learned Single Judge of this Court, has dismissed the writ petition, vide order, dated 28.10.2010. Against which, Tmt.Tamilselvi also filed the present writ appeal in W.A(MD)No.635 of 2011.

8.In this writ appeal, the petitioner's prayer was to sponsor her name for the second interview. Though, ultimately the writ petition was dismissed, the learned Special Government Pleader would submit that the petitioner was sponsored by the employment exchange and she had also participate in the interview vide call letter dated 06.08.2010 by and in which, the petitioner attended an interview, on 18.08.2010. Therefore, the main contention put-forth by the petitioner in W.P(MD)No.9640 of 2010 and in the connected writ petition is that as on the date of the notifications for the post of Lab Technician Grade-III, her employment seniority has reached and therefore, she has to be sponsored and to be appointed to the post of Lab Technician Grade-III, only based upon her employment seniority.

9.However, the learned Special Government Pleader would submit that the employment exchange would only sponsor the



W.A.(MD).No.635 of 2011

candidates and the appointment will be based upon the marks secured by the individual candidate in the interview. However, the argument of the learned counsel for the petitioner in respect of cut-of date for sponsoring of the backward class assumes importance. It is the submission of the learned counsel for the petitioner that the cut-of date for General Turn candidate was on 15.09.1995. Therefore contended that the cut-of date for backward class candidate should have been earlier date to the above cut of dated. Whereas according to the respondents, for the petitioner's community [Backward Class(other than Backward class Muslims), Non-priority – General (BCO-NP-General)] it was 30.12.1994. Therefore, it was contended that there were some irregularities in maintaining the cut-of date by the employment exchange.

10. But this Court do not want to go into that aspect. As the prayer sought for by the petitioner pertains to the challenge as to the appointment of the candidates, whether the same is based upon the employment exchange seniority or on the basis of interview mark. However, it is the contention of the respondents Government that in both the selections, the merit was the main criteria and the merit was determined based upon the mark obtained in the interview. Though the petitioner participated in both the interview, has not secured a required mark so as to come within the zone of merit. To put it in other words, it is the submission of the learned Special Government



W.A.(MD).No.635 of 2011

Pleader that the selection of the candidate for the post of Lab Technician Grade-III was not on the basis of the employment exchange seniority, but on the basis of the marks secured by the individual candidate in the interview.

11.It is pertinent to mention here that though the petitioner contended that the selection should be based upon the Employment Exchange seniority, she has not substantiated such contention by producing acceptable document or rules. However, the appointing authority has categorically stated that the appointment was made based upon the merits qua the marks secured in the interview. Therefore, such administrative decision consciously taken by the authority concerned, cannot be interfered when there are no material to infer any irregularity or arbitrariness. Therefore, this Court finds no material to issue any writs in favour of the petitioners Tmt.P.Tamilselvi Tmt.G.Chandra. Hence, these petitions are liable to be dismissed.

13.In the result, all the writ petitions and writ appeal are dismissed. There is no order as to costs.

**(G.J.J.) & (C.K.J.)
.03.2024**

Index:Yes
Internet:Yes/No

<https://www.mhc.tn.gov.in/judis>



WEB COPY



W.A.(MD).No.635 of 2011

To

- 1.The Secretary to Government,
Department of Public Health,
Fort Saint George,
Chennai-600 009.
- 2.The Director of Public Health and
Preventive Medicine,
DMS Complex,
Chennai-600 006.
- 3.The Commissioner of Employment
and Training
Guindy, Chennai.
- 4.The Deputy Director,
Public Health Science,
Pudukottai.



WEB COPY



W.A.(MD).No.635 of 2011

DR G. JAYACHANDRAN,J.
AND
C.KUMARAPPAN,J.

W.A.(MD).No.635 of 2011
and
W.P(MD).No.11009 of 2009
and
W.P(MD)No.14690 and 14691 of 2010
and
M.P(MD).Nos.1 of 2009,1,1 and 2 of 2010

.03.2024