



W.P.(MD) Nos.2832 & 2833/2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD) Nos.2832 & 2833 of 2024

Dr.S.Vinesh ... Petitioner in W.P.(MD) No.2832/2024

Dr.R.Helden Selvakumar ... Petitioner in W.P.(MD) No.2833/2024

-vs-

1.The Secretary,
Health, Medical Education, Family Welfare Department,
Chennai – 9.

2.The Director,
Directorate of Medical and Health Services,
7th Floor, DMS Buildings,
359, Anna Salai,
Teynampet,
Chennai – 6.

3.The Member Secretary,
Medical Services Recruitment Board (MRB),
359, Anna Salai,
Teynampet,
Chennai – 6.

... Respondents in both W.Ps.



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PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India, praying for issuance of a writ of mandamus, directing the respondents to consider the petitioners for the selection to the post of Assistant Surgeon (General) based on merit list published by the third respondent in the examination conducted by him pursuant to the notification No. 11/MRB/2022, dated 10.11.2022, without reference to the date of permanent registration in Tamilnadu Medical Council.

For Petitioner in both W.Ps.: Mr.K.P.Narayanakumar

For Respondents 1 and 2 in both W.Ps. : Mr.J.Ashok,
Addl. Govt. Pleader.

For Respondent 3 in both W.Ps.: Mr.V.Ramesh,
Standing Counsel.

ORDER

The instant Writ Petitions have been filed by two aspirants to the post of Assistant Surgeon (General), seeking a mandamus as against the respondents to consider them for selection to the said post, based on merit list published by the Medical Services Recruitment Board, pursuant to the notification, dated 10.11.2022, without reference to the date of permanent registration in Tamil Nadu Medical Council.



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2. The petitioners herein have applied to the post of Assistant Surgeon (General), based upon the notification issued by the third respondent herein on 10.11.2022. As per the said notification, the last date for submitting the applications through online mode was 25.10.2022. Clause 6 (B) of the said notification, which deals with educational qualification, is extracted below :

"6B.EDUCATIONAL QUALIFICATION :

Candidates should possess the following or its equivalent qualification awarded by a University or Institution recognised by the University Grants Commission for the purpose of its grants. The courses must have been approved by the Medical Council of India.

For Assistant Surgeon (General) - MBBS Degree

In addition to the above, the candidates

- i. must be a registered practitioner within the meaning of the Madras Medical Registration Act, 1914.*
- ii. Must have served as House Surgeon (CRR) for a period of not less than twelve months.*
- iii. Candidates should have registered their name in the Tamil Nadu Medical Council on or before the last date of this Notification. (Last date for submission of application i.e., 25.10.2022)*



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iv. If a candidate claims that the educational qualification possessed by him/her is equivalent though not the same as those prescribed for the appointment, the onus of proof rests with the candidate."

As per the above said qualification prescribed in the notification, the candidates should have completed the compulsory residential internship for not less than twelve months. Apart from that, the candidates should have registered their names in the Tamil Nadu Medical Council on or before the last date of the notification i.e., 25.10.2022

3. Both the petitioners have completed their compulsory residential internship only on 28.10.2022. Further, the petitioner in W.P.(MD) No.2832 of 2024 has registered himself before the Tamil Nadu Medical Council on 30.03.2023 and the petitioner in W.P.(MD) No.2833 of 2024 has registered himself before the Tamil Nadu Medical Council on 31.03.2023.

4. The petitioners have been successful in the written examination and their names were reflected in the merit list published by the third respondent. They were also called for certificate verification and, at the time of verification, the third respondent found that the petitioners were not qualified



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as on the cut-off date i.e., 25.10.2022. Therefore, their candidature was rejected. However, without challenging the said rejection, the present writ petitions have been filed, seeking a mandamus to direct the third respondent Recruitment Board to select and appoint the petitioners to the post of Assistant Surgeon (General) without reference to the date of permanent registration in Tamil Nadu Medical Council.

5. Learned counsel for the petitioners has contended that before the publication of the merit list, the petitioners have completed the compulsory residential internship and got themselves registered before the Tamil Nadu Medical Council. That apart, he would contend that both the petitioners are physically challenged persons and, therefore, this Court should take a lenient view that they have completed their residential internship and registered themselves before the Tamil Nadu Medical Council before the publication of the merit list by the third respondent.

6. Per contra, learned Standing Counsel appearing for the third respondent has contended that as per the notification, the petitioners should be fully qualified as on the last date meant for submission of the applications, namely, 25.10.2022. Both the petitioners have neither completed their



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compulsory residential internship nor have they got themselves registered before the Tamil Nadu Medical Council before 25.10.2022. The petitioners' names were reflected in the merit list only based upon the details given by the petitioners in the application forms, that they have uploaded in the website. Therefore, the petitioners cannot take advantage of the fact that they were permitted to appear for the examination or their names were reflected in the merit list.

7. I have carefully considered the submissions made on either side and perused the material records.

8. The dates and events narrated above will clearly indicate that both the petitioners have not completed the mandatory requirement of registration before the Tamil Nadu Medical Council before the cut-off date, namely, 25.10.2022. In such circumstances, this Court cannot issue a mandamus, directing the authorities to select the petitioners without reference to the date of permanent registration in Tamil Nadu Medical Council, which would militate against the conditions imposed, relating to the educational qualification in the notification. The petitioners, having not challenged the cut-off date as per the said notification, cannot seek a mandamus to consider their names, ignoring the cut-off date, issued in the notification.



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9. Therefore, there are no merits in these Writ Petitions, which are, accordingly, dismissed. No costs. Consequently, the connected W.M.P. (MD) Nos.2824 and 2826 of 2024 are closed.

29.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

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- 2.The Director,
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R.VIJAYAKUMAR, J.

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