



W.P.(MD).No.3456 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.3456 of 2024

1.M.Parthiban
2.R.Mohankumar
3.N.Manikandan

... Petitioners

Vs.

1.The State of Tamil Nadu
Rep.by its Principal Secretary to Government,
Health and Family Welfare Department
Secretariat,
St.GEorge Fort, Chennai.

2.The Chairman,
The Medical Services Recruitment Board,
7th floor, DMS Buildings,
No.359, Annasalai,
Teynampet,
Chennai – 600 006

3.The Director of Medical and Rural Health Services,
O/o Director of Medical and Rural Health Services,
Chennai – 600 006.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to consider the petitioner's representation to increase the number of vacancies in pursuant to the notification issued by the 2nd respondent vide notification No. 02/MRB/2020 dated 22.05.2020 in view of the subsequent alteration in the notification to provide incentive marks within the time stipulated by this Court.

For Petitioners : Mr.C.Venkatesh Kumar
for M/s.Ajmal Associates

For R1 & R3 : Mr.J.John Rajadurai
Government Advocate

For R2 : Mr.Ramesh
Government Advocate

ORDER

Mr.J.John Rajadurai, learned Government Advocate takes notice for the first and third respondents and Mr.Ramesh, learned Government Advocate takes notice for the second respondent.

2. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.



W.P.(MD).No.3456 of 2024

WEB COPY

3. The brief facts which are necessary for the disposal of this Writ Petition are as follows:-

The petitioners are Doctors by profession and qualified with M.B.B.S. The 2nd respondent vide notification dated 22.05.2020 invited applications for the post of the Assistant Surgeon (General) for the notified 22 vacancies. Due to Covid pandemic the Notification dated 22.05.2020 was kept in abeyance. Subsequently, the 2nd respondent issued a fresh notification dated 11.10.2022 insisting the applicants to apply again afresh. For the notified vacancies of 1021, examinations were held on 25.04.2023. The petitioners appeared for the examinations and awaited for the results. In the meanwhile, pursuant to the interim order passed by the Principal Seat of this Court, the Government of Tamil Nadu issued G.O.Ms.No.278, Health and Family Welfare Department dated 17.08.2023 granting incentive marks to the Medical Officer, who worked in Government Medical Institution during Covid pandemic as a result of which the petitioners, who were within the zone of consideration left out of zone of consideration. As per the information furnished under RTI Act, 1752, vacancies in the cadre of Assistant Surgeon are existing. Hence, the petitioners gave a representation 02.02.2024 requesting the respondents to increase the number of



W.P.(MD).No.3456 of 2024

WEB COPY

vacancies notified. So that they could be benefited. The same was not considered.

4. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondent to consider the same on its own merits and pass appropriate orders in one way or other instead of keeping the same pending indefinitely. As such, non-consideration of the representation made by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking the extraordinary powers under Article 226 of the Constitution of India.

5. It is made clear that without going into the merits of this case, this Court hereby direct the respondents 1 and 2 to consider the representation of the petitioner dated 02.02.2024 and pass appropriate orders in accordance with law within a period of four (4) weeks from the date of receipt of a copy of this order.



W.P.(MD).No.3456 of 2024

WEB COPY

7. Accordingly, this Writ Petition stands disposed of. No costs.

15.02.2024

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

To

- 1.The Principal Secretary to Government,
Health and Family Welfare Department
Secretariat,
St.GEorge Fort, Chennai.
- 2.The Chairman,
The Medical Services Recruitment Board,
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W.P.(MD).No.3456 of 2024

L.VICTORIA GOWRI, J.

CM

W.P.(MD).No.3456 of 2024

15.02.2024