



W.P.(MD).No.16065 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.16065 of 2022

and

W.M.P(MD)Nos.11611 & 11614 of 2022

P.Ganesan

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Chennai-9.
- 2.The Director of Public Health & Preventive Medicine,
O/o.the Public Health and Preventive Medicine,
DMS Compound, Teynampet,
- 3.The Deputy Director of Health Services,
O/o.the Deputy Directorate of Health Service,
R.S.Mangalam,
Ramanathapuram District.
- 4.The Block Medical Officer,
Government Primary Health Centre,
R.S.Mangalam,
Ramanathapuram District.
- 5.Velmurugan
- 6.Jeya Bharathi

... Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned panel for the post of Junior Water Analyst for the year 2021-2022 published by the second respondent in his proceedings in R.No.081297/E2/S2/2021 dated 04.06.2022 and the consequential rejection order passed by the second respondent in his proceedings in ந.க.எண். 081297/படுதா.2/இரு.2/2021 dated 04.06.2022 and quash the same as illegal and consequentially to direct the second respondent to include the name of the petitioner in the panel of Junior Water Analyst for the year 2021-2022 and appoint him as Junior Water Analyst taking into account of his seniority on par with the date on which his juniors were appointed on recruitment by transfer within the period that may be stipulated by this Court.

For Petitioner : Mr.H.M.Hemeed Imron
for M/s.Ajmal Associates
For R1 to R4 : Mr.S.S.Madhavan
Government Advocate
For R5 & R6 : No appearance

ORDER

The instant writ petition has been filed by an Assistant working at Government Primary Health Centre, R.S.Managalam, Ramanathapuram District seeking to challenge the panel prepared by the second respondent herein for the



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post of Junior Water Analyst for the year 2021-2022. The petitioner has also challenged the consequential rejection order passed by the second respondent on 04.06.2022.

2. According to the petitioner, he was appointed as Junior Assistant in Government Primary Health Centre, Nalli, Upathur Block, Virudhunagar District and his services were regularized with effect from 21.05.2013. The petitioner's probation was declared on 27.06.2016. Thereafter, the petitioner was promoted as Assistant on 26.09.2017.

3. According to the petitioner, he has obtained a degree from Ayyanadar Janakiammal College, Sivakasi from the Madurai Kamarajar University in B.Sc., Plant Biology and Plant Bio-Technology during the academic year 2004-2007. The next promotional avenue for the writ petitioner is Junior Water Analyst by recruitment by transfer.

4. When the panel was prepared, the second respondent herein has rejected the candidature of the writ petitioner on the ground that his qualification as B.Sc., Plant Biology and Plant Bio-Technology is not equivalent to B.Sc., Botany as per the Special Rules. Consequential order was



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passed on 04.06.2022 approving the panel for the post of Junior Water Analyst excluding the name of the writ petitioner. Challenging both these orders, the present writ petition has been filed.

5. The learned counsel appearing for the writ petitioner had relied upon the Tamil Nadu Public Health Subordinate Service Rules and contended that the qualification for being appointed as Junior Water Analyst is by promotion or recruitment by transfer of candidates, who are possessing B.Sc., degree with Botany or Zoology or Chemistry as the main subject.

6. According to the petitioner, the Higher Education (K2) Department has issued G.O.(Ms) No.72, dated 30.04.2013 to the effect that B.Sc., Plant Biology and Plant Bio-Technology is equivalent to B.Sc., Botany. In such view of the matter, the learned counsel for the petitioner has contended that when the qualification of the writ petitioner is found to be equivalent to that of the B.Sc., Botany, the respondents authorities ought to have included the name of the petitioner in the panel and should have granted the promotion, hence, he prayed for allowing the writ petition.



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7. Per contra, the second respondent has filed a counter contending that there is no issue with regard to the seniority of the writ petitioner in the post of Assistant so as to be promoted as Junior Water Analyst. However, the petitioner has passed only B.Sc.,Plant Biology and Plant Bio-Technology and this major subject is not found in the existing Special Rules under Section 26 of the Tamil Nadu Public Health Subordinate Services Rules. Though, G.O.(Ms) No.72, Higher Education (K2) Department, dated 30.04.2013 and G.O.Ms.No. 133, School Education (M2) Department, dated 04.06.2012 are in favour of the writ petitioner, they are applicable only for the recruitment to the post of B.T.Assistant and will not commonly apply for all the departments, hence, he prayed for dismissal of the writ petition.

8.I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

9. The only issue that arises for consideration is whether the qualification obtained by the writ petitioner in B.Sc.,Plant Biology and Plant Bio-Technology is equivalent to B.Sc., Botany for considering his name to be promoted to the post of Junior Water Analyst from the post of Assistant in Public Health Department or not?



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10. The fact that the petitioner falls within the Zone of consideration for being promoted to the post of Junior Water Analyst from the post of Assistant, is not in dispute. The only ground on which the request of the petitioner for promotion is rejected is that his educational qualification is not as per the prescribed qualification in the Tamil Nadu Public Health Subordinate Services Rules.

11. A perusal of the degree obtained by the writ petitioner reveals that he had passed the under graduate degree in Bachelor of Science Plant Biology and Plant Bio-Technology in April 2007 from Madurai Kamarajar University. A perusal of G.O(Ms)No.72, Higher Education (K2) Department, dated 30.04.2013 reveals that accepting the resolutions passed by the 39th Equivalence Committee, the Government has passed the said Order to the effect that B.Sc.,Plant Biology and Plant Bio-Technology is equivalent to B.Sc., Botany. The contention of the respondents authorities that this equivalent certificate is relevant only for the purpose of appointment of B.T Assistant, is not legally sustainable. Once the Equivalent Committee finds that a particular subject is equivalent to another subject, is not only applicable for appointment to Educational Department, but for other department also, unless, the Service Rules of that department specifically prescribe any different



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qualification. In the present case, the service rules specifically point out that B.Sc., Botany is the one of the required qualification for being appointed as a Junior Water Analyst. Therefore, in such view of the matter, the impugned order passed by the second respondent herein and the consequential order passed by the second respondent are set aside. The respondents authorities are directed to include the name of the petitioner in the panel for promotion of Junior Water Analyst for the year year 2021-2022 and appoint him for the said post taking into account the seniority on par with his juniors by recruitment by transfer. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

12. With the above observations, the writ petition stands allowed. No costs. Consequently connected miscellaneous petitions are closed.

05.08.2024

Index : Yes / No
Internet: Yes / No
NCC :Yes / No
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WEB COPY

- To
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Health and Family Welfare Department,
Secretariat,
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 - 2.The Director of Public Health & Preventive Medicine,
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 - 3.The Deputy Director of Health Services,
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R.VIJAYAKUMAR,J.,

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