



W.P.(MD).Nos.21938 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.21938 of 2024

and

W.M.P.(MD).No.18587 of 2024

1. K.Chandrasekar
2. G.Settu

... Petitioners

-VS-

1. State of Tamilnadu,
Rep. by its Principal Secretary,
Health and Family Welfare Department,
Fort St. George,
Secretariate,
Chennai.

2. The Chairman,
The Medical Service Recruitment Board,
7th Floor, DMS Building,
No.359, Anna Salai,
Teynampet,
Chennai-600 018.

3. The Chairman,
Directorate of Public Health and Preventive Medicine,
No.359, Anna Salai,
Teynampet,
Chennai-600 006.

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the Respondent Nos.1 and 2 to fill up the actual entire 1752 vacancies available for the post of Assistant Surgeon as on 02.11.2023 from and out of the Medical Service Recruitment Board results published on 06.01.2024 towards the Notification No.11/MRB/2022 dated 11.10.2022.

For Petitioner	: M/s.K.Porkodi for M/s.Polax Legal Solutions
For Respondent Nos.1 & 3	: Mr.T.Amjadkhan Government Advocate
For Respondent No.2	: Mr.V.Ramesh Standing Counsel

ORDER

The instant writ petition has been filed by an aspirants to the post of Assistant Surgeon (General) seeking a mandamus to fill up the entire 1752 vacancies available to the post of Assistant Surgeon as on 02.11.2023 from and out of the Medical Service Recruitment Board results published on 06.01.2024, based upon the notification No.11/MRB/2022 dated 11.10.2022.



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2. It could be seen from the typed set of papers that the second respondent herein has issued a notification No.11/MRB/2022 dated 11.10.2022, calling upon applications for the post of Assistant Surgeon (General) for 1021 vacancies. The petitioners herein have approached the department of Public Health and Preventive Medicine by way of Right to Information Act and obtained a information on 02.11.2023 to the effect that though notifications were issued for 1021 posts, as on that date 1752 vacancies were available.

3. It is the grievance of the petitioners that instead of 1021 posts, the second respondent Medical Service Recruitment Board could very well recruit Assistant Surgeons (General) for 1752 posts based upon the notification dated 11.10.2022.

4. The learned Counsel appearing for the writ petitioners further contends that notifications issued in the year 2013, 2014, 2016 and 2018 the notified vacancies were increased during the process of recruitment. Therefore, the Medical Service Recruitment Board has got powers to increase



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the vacancies pending recruitment process. In case, if the vacancies are increased, the petitioners are likely to be accommodated based upon the notification dated 11.10.2022. Hence, the present writ petition has been filed seeking a mandamus to increase the vacancies of 1752 posts.

5. Per contra, the learned Standing Counsel appearing for the second respondent had contended that for all the 1021 vacancies, the recruitment has been completed and the names have been forwarded to the concerned department. Now, the dispute is pending only with the regard to the vacancy that has arisen due to the non-joining post. He further submits that on 15.03.2024, another notification has been issued calling for applications to the post of Assistant Surgeon (General) for 2553 vacancies. In such circumstances, the Medical Service Recruitment Board would not be in a position to revise the vacancies under the notification dated 11.10.2022.

6. I have carefully considered the submissions made on either side and perused the materials available on record.



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7. The primary grievance of the writ petitioners is that when there are 1752 vacancies, the Medical Service Recruitment Board was not right in issuing a notification dated 11.10.2022, only for 1021 vacancies. In fact on previous occasions, the second respondent had increased the vacancies during the recruitment process itself. Therefore, they could very well increase the vacancies so that the petitioners could get accommodate. This Court is not convinced with the said submissions. Though the recruitment board could increase the vacancies based upon the demand made by the concerned department, in the present case, a fresh notification has been issued on 15.03.2024, calling for applications for 2553 vacancies. The present writ petition has been filed only on 19.08.2024.

8. In such circumstances, when a fresh notification has already been issued on 15.03.2024 for the vacancies, the Medical Service Recruitment Board or the concerned Department would not be in a position to increase the vacancies based upon the notification dated 11.10.2022.



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9. In view of the above said facts, there are no merits in this writ petition and this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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(2/4)**

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

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Health and Family Welfare Department,
Fort St. George,
Secretariate,
Chennai.

2. The Chairman,
The Medical Service Recruitment Board,
7th Floor, DMS Building,
No.359, Anna Salai,
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Chennai-600 018.

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R.VIJAYAKUMAR,J.

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