



W.P. No. 20876 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2025

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

W.P. No. 20876 of 2018

and

W.M.P. No. 24508 of 2018

Dr.Babu.M

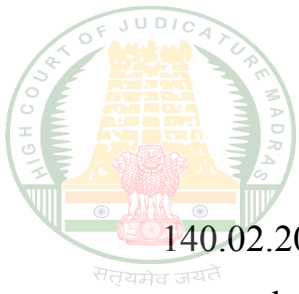
... Petitioner

-VS-

1. The Secretary to Government
Health and Family Welfare Department
Fort St. George, Chennai-600009.
2. The Director of Public Health and
Preventive Medicine, DMS Complex
359, Anna Salai, Teynampet
Chennai-600006.
3. The Secretary
Tamil Nadu Public Service Commission
VOC Nagar, Park Town, Chennai-600003.
[R3-impleaded as per Order dated 30.01.2025
in W. M. P. No. 3772 of 2025 in W.P.
No. 20876 of 2018]

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 15.12.2015 Ref.R.No.81356/E5/A2/2012 issued by the second respondent insofar as the granting regularization of the service to the petitioner with effect from



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140.02.2013 and quash the same and consequently, direct the second respondent to grant regularization to the petitioner with effect from his initial date of appointment i.e.04.02.2011 and grant all service benefits to the petitioner from such date of initial appointment.

For Petitioner : Mr.S.Thanka Sivan

For Respondents : Mrs.P.Rajarajeswari, GA (RR1 & 2)
Mr.R.Baranidharan, SC (R3)

ORDER

This writ petition has been filed calling for the records relating to the impugned order dated 15.12.2015 Ref.R.No.81356/E5/A2/2012 issued by the second respondent insofar as the granting regularization of the service to the petitioner with effect from 140.02.2013 and quash the same and consequently, direct the second respondent to grant regularization to the petitioner with effect from his initial date of appointment i.e.04.02.2011 and grant all service benefits to the petitioner from such date of initial appointment.

2. Heard Mr.S.Thanka Sivan, learned counsel for the petitioner, Mrs.P.Rajarajeswari, learned Government Advocate for the first and second respondents and Mr.R.Baranidharan, learned Standing Counsel for the third



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respondent and perused the materials placed on record, apart from the pleadings

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3. The petitioner was appointed as Assistant Surgeon by order dated 03.02.2011 under Rule 10(a)(i) of the Tamil Nadu State and Subordinate Service Rules and he joined duty on 04.02.2011 and his service was regularized on 15.12.2015 with effect from 14.02.2013. The petitioner has also written the Tamil Nadu Public Service Examination for the year 2009 and he was kept in the reserved list.

4. The learned counsel for the petitioner further submitted that the petitioner is entitled to be regularized from the date of his initial appointment to the temporary service, i.e., on 04.02.2011.

5. The learned counsel for the respondents submitted that the petitioner should have participated in the Tamil Nadu Public Service Examination for the year 2009 and was kept in the reserved list and when the reserved list was moved, the petitioner was given with an appointment order on 13.03.2013 and thereafter, the petitioner joined duty as against the regular vacancy on



14.03.2013.



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6. It is to be noted that the petitioner was kept in the reserved list only during the direct recruitment made for recruiting the Assistant Surgeon (General). Though the petitioner was appointed on temporary basis on 03.02.2011, the petitioner has not opted to write the Special Qualifying Examination as per the Government Order in G.O.D. No.1162, Health dated 07.10.2008 issued in this regard. If the petitioner appeared for the Special Qualifying Examination conducted by the Tamil Nadu Public Service Commission for the temporarily appointed medical doctors and cleared the same before he got his regular appointment through direct recruitment, it would have been possible to regularize the services of the petitioner from the date of his temporary appointment. But the petitioner has not written any examination and qualified himself as per the earlier Government Orders in this regard. In other words, the petitioner's services have not been regularized taking into consideration of his temporary appointment made on 03.02.2011, but his appointment made on 13.03.2013 as against the regular vacancy through direct recruitment.



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7. Without writing the Special Qualifying Examination conducted by the

WEB C TNPSC for the temporary doctors and getting it cleared, the petitioner cannot claim that his regularization relates back to the date of his temporary employment, i.e., 03.02.2011. Taking into consideration of his position secured in the reserved list through the direct recruitment held for the year 2009 and consequential appointment order released in the year 2013, the petitioner's regularization can be made only from the date of his regular appointment and not from the date of his temporary appointment made under Rule 10(a)(i) of the Tamil Nadu State and Subordinate Service Rules and joined duty on 04.02.2011.

8. The learned counsel for the petitioner submitted that the petitioner was not aware of the qualification by writing the Special Qualifying Examination of the Tamil Nadu Public Service Commission for temporary doctors. Had it been informed to the petitioner, he would have written the examination and got himself qualified to be regularized from the date of his temporary appointment i.e. on 04.02.2011.

9. 'Ignorance of the Rule is no excuse' (*ignorantia juris non excusat*). The



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petitioner might have been indifferent because he has already participated in the direct recruitment process and he has secured a place in the selection list and without clearing the Special Qualifying Examination conducted by the Tamil Nadu Public Service Commission for temporary doctors, the petitioner cannot claim that his regularization should relate back to the date of his temporary appointment. In other words, the recruitment of Assistant Surgeon are made through two channels, one by way of sponsoring the names of the candidates through employment exchange, whenever temporary vacancies arise, and other one by way of direct recruitment by regular vacancies arise. The petitioner, who participated and selected in the regular direct recruitment cannot claim parity with those candidates, who got their permanency and regularization by passing the qualifying test, i.e., Special Qualifying Examination meant for the temporary doctors.

10. In view of the above difference, it is right for the first respondent to pass an order stating that the petitioner ought have passed the qualifying examination in order to get the relief as prayed.

11. In view of the same, **this writ petition is dismissed.** Consequently, the



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connected Miscellaneous Petition is closed. No costs.

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Index: Yes/No

Internet: Yes/No

Speaking /Non-speaking order

Maya

To

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Health and Family Welfare Department
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2. The Director of Public Health and
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R.N.MANJULA, J.

Maya

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