



W.A No. 987 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-04-2025

CORAM

THE HONOURABLE MR JUSTICE R. SURESH KUMAR

AND

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

W.A No. 987 of 2023 AND CMP NO. 9867 OF 2023

1. P.Vadivel
2. A.Jeganathan
3. S.Vinoth
4. V. Viswanathan
5. M.Thiruppathi
6. C. Suresh
7. R.Mani
8. R.Aruchamy
9. R. Selvakumar
10. D.Pragatheswaran
11. R.Karthick
12. B.Eswaran
13. M.Parasuraman
14. R.Rajkumar
15. P.Thangeswaran
16. K.Prakash
17. A.Askar Ali
18. M.Prakasha Ruban
19. C.Suresh
20. S.Tamizharasan
21. E.Kannan Maharaja
22. M. Venkatesan
23. V.Yuvraj
24. V.Dhamotharan
25. P. Aravindhan
26. N.Meenakshi Sundar
27. C.Dineshkumar
28. A.Senthil Velkumar
29. K.Parthasarathi
30. S. Kalaichelvan
31. S.Sanjay

... Appellants



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Vs

1. The State of Tamilnadu
Rep. by its Principal Secretary to
Government, Health and Family
Welfare Department, Secretariat,
Fort St. George, Chennai - 600 009.

2.The Director of Public Health and
Preventive Medicine,
DMS Compound, Anna Salai,
Teynampet, Chennai - 600 006

3.The Chairman
Medical Recruitment Board, 7th
Floor, DMS Compound, 359 Anna
Salai, Chennai 600006.

... Respondents

PRAYER

Writ Appeal under Clause 15 of the Letters Patent to set aside the orders
passed by the Honble Court in W.P.No.272 of 2022 dated 17.03.2023.

For Appellants : Mr.G.Sankaran, Senior Counsel for
Mr.S.Nedunchezhiyan

For Respondents : Ms.M.Sneha, Special Counsel
for Family Welfare Department
(RR 1 and 2)
Mr.L.Murugavel
Standing Counsel – for R3

J U D G M E N T

(Judgment of the Court was delivered by R.Suresh Kumar J.)

This intra Court appeal has been directed against the order passed
by the Writ Court W.P.No.272 of 2022 dated 17.03.2023.



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2. In fact, the order of the Writ Court dated 17.03.2023 is a common order, where, in W.P.No.272 of 2022 the prayer sought for was for a writ of Mandamus directing the respondents therein to implement G.O.Ms.No.338, Health and Family Welfare Department dated 02.08.2019 to fill up the regular sanctioned vacancies to the post of Health Inspector Grade-II as per the qualification prescribed in the Government Order and consequently consider the petitioners for selection for appointment to the sanctioned post of Health Inspector Grade-II based on the merit in the selection.

3. There were 31 writ petitioners, who are the writ appellants herein. The said writ petition, along with other connected writ petitions with almost similar prayer or slightly different prayer and are inextricably connected with each other, had been heard by the Writ Court and a common order dated 17.03.2023 was passed.

4. The Writ Court formulated four questions to be answered and all the four questions have been answered. The main issue that was projected before the writ Court was that, whether the writ petitioners who had been engaged during the COVID-19 period by virtue of G.O.No.95, Health and Family Welfare Department dated 13.03.2020 as Multipurpose



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Health Worker (Male) in the post of Health Inspector Grade II on a consolidated pay of Rs.20,000/- per month can be directly appointed or absorbed as Health Inspector Grade II or not. That main question was answered in the negative by the Writ Court for which lengthy observations have been made by the Writ Court and also by taking into account the judgment of the Hon'ble Supreme Court in the case of **Secretary to Government -vs- Umadevi (2006) 1 S.C.C. Page 1**. The writ Court has concluded that such automatic absorption or appointment in the sanctioned post of Health Inspector Grade II cannot be granted.

5. Other related issues had been answered, which included the reduction of pay at one point of time from Rs.20,000/- to Rs.14,000/- or even Rs.11,000/- per month, by converting those employees who had been initially engaged as Multipurpose Health Worker (Male) during the COVID-19 period subsequently into National Health Mission, whether was correct or not.

6. Insofar as the multiple qualifications of various writ petitioners including the present writ petitioners, whether can be treated as equivalent qualification for the purpose of holding the post of Health Inspector Grade II also has been answered by the Writ Court.



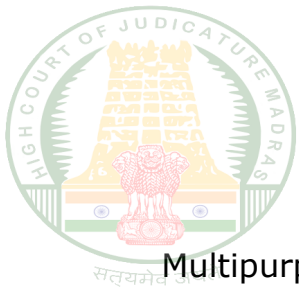
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7. Though number of writ petitions have been disposed of by a common order dated 17.03.2023, only against the order passed in respect of the writ petitioners in W.P.No.272 of 2023 alone has been challenged in the present appeal.

8. Mr.G.Sankaran, learned Senior Counsel appearing for the appellants would contend that, under G.O.Ms.No.338 dated 02.08.2019, 334 posts of Multipurpose Health Worker (Male) ie., Health Inspector Grade-II since had been identified, by giving relaxation to Rule 5(2) of the Adhoc Rules with regard to the qualification especially the certification held by those workers for the purpose of holding the post of Multipurpose Health Worker ie., Health Inspector Grade-II has to be relaxed and by giving such relaxation, 334 posts should be filled, for which, though recruitment process had already been commenced by the Medical Services Board, such a recruitment drive has not been completed. By thus, the persons like the petitioners / appellants herein are aggrieved, he contended.

9. It is further contended by the learned Senior Counsel that, as per G.O.No.338 since relaxation has been given under Rule 5(2) of the Adhoc Rules, based on which, the candidate who possesses one year

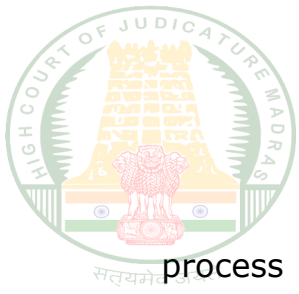


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Multipurpose Health Worker (Male) Course / Sanitary Inspector Course in University affiliated Government recognized Institutions also be taken into account. Such qualification since has been fulfilled by these appellants, there can be no impediment for the respondent Department to absorb these people by way of direct recruitment pursuant to the recruitment drive already been initiated in this regard.

10. Learned Senior Counsel would also submit that, since many of the writ petitioners had already been working for some years on temporary basis or adhoc basis, by thus, they might have reached or crossed the upper age limit, for which relaxation also has to be given, which in fact has been supported by the learned Single Judge, and, to that extent an observation had been made by the writ Court in the impugned order in Para 16, where a direction has been given to the Government to give such relaxation to those appellants/petitioners who have crossed the upper age limit. These are the grievances appears to be for the writ petitioners, for which this appeal has been filed, learned Senior Counsel contended.

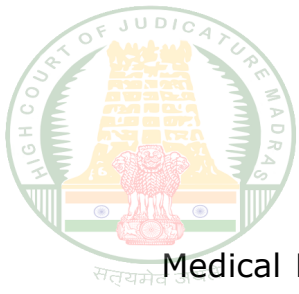
11. Heard Ms.M.Sneha, learned Special Counsel appearing for the respondents 1 and 2, who would submit that, insofar as the recruitment process is concerned, pursuant to G.O.Ms.No.338 dated 02.08.2019, the



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process had already commenced, where, based on the marks secured by each of the candidate in the basic qualification like +2 or SSLC with Tamil Language as well as Diploma or Certificate Course approved by the Directorate of Public Health and Preventive Medicine, interview would be conducted and the marks secured by them in the interview would also be put together. Accordingly, selection would be made and that is the pattern adopted by the Medical Recruitment Board. However, that was questioned in a batch of writ petitions in W.P.(MD) No.18405 of 2023 etc., batch, where the very notification issued by the Medical Recruitment Board was challenged. The said batch of writ petitions were disposed of by a common order passed by the Writ Court at Madurai Bench of this Court by order dated 11.09.2024, where, ultimately the learned Single Judge set aside the notification by giving liberty to the Medical Recruitment Board to go for a fresh notification, where a competitive examination can be prescribed for selecting the persons to the post of Multipurpose Health Worker in the post of Health Inspector Grade-II.

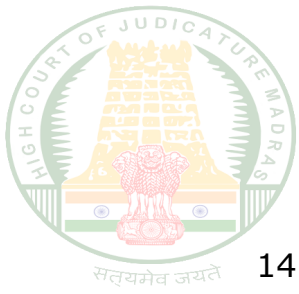
12. Therefore, the learned counsel would submit that, pursuant to the said order passed by the Writ Court, already the issue had been referred to the Government for getting their nod to formulate the examination pattern for the selection process and within a shortest period possible, such a nod would be given by the Government. Thereafter, the



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Medical Recruitment Board would go ahead by issuing further notification for the selection by adopting the method of competitive examination. Apart from that, weightage marks have been given for the candidates, who already worked during the COVID-19 period as per G.O.Ms.No.299 dated 12.09.2023.

13. Therefore, the learned Standing Counsel would submit that, insofar as equivalence of the qualification is concerned, already G.O.No.45, Higher Education Department dated 19.04.2022 was issued under which in Clause 15, the qualification held by these petitioners/appellants are considered to be equivalent and so many other qualifications also were considered to be equivalent. Therefore, insofar as these petitioners / appellants are concerned, there is absolutely no grievance for them with regard to acceptance of the qualification and it is for them to compete with others at the time when fresh notification is issued after getting nod from the Government by conducting competitive examination also by the Medical Recruitment Board. Therefore, as of now there could be absolutely no grievance for the appellants herein to agitate the issue once again by filing the present writ appeal. Hence, the learned Standing Counsel seeks dismissal of this appeal.



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14. We have also heard the learned Standing Counsel for Medical Recruitment Board, who would submit that the earlier notification since has been set aside, they are waiting for the orders to be passed by the Government as to how the next selection process as directed by this Court has to be undertaken and once such a permission is granted or direction is issued by the Government to the Medical Recruitment Board is ready and they are willing to go ahead with the selection process by issuing fresh notification.

15. We have considered the submissions made by the learned counsel for both sides and have perused the materials placed on record.

16. We have gone through the order which is impugned herein dated 17.03.2023, which is exhaustive one, where the issues which have been raised by number of writ petitioners including the appellants herein had been considered and decided issue by issue.

17. As we have pointed out, the main issue of absorbing the present appellants and similarly placed persons who had been engaged during the COVID-19 period as adhoc employees in the post of Multipurpose Health Worker (Male) / Health Inspector Grade-II was negated by the learned Judge through the impugned order, which we are in complete agreement,



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the reason being that, since the 334 posts being identified or sanctioned through G.O.Ms.No.338, being public employment, it could be filled up only through proper selection method by permitting all eligible persons to compete in the manner known to law. Therefore, no automatic absorption or appointment whatever can be sought for and to that extent, the decision taken by the writ Court is to be approved.

18. Insofar as the qualification is concerned, now that the issue has already been resolved by issuance of G.O.Ms.No.45 dated 19.04.2022, and it is an admitted case that now the qualification of the writ petitioners / appellants are acceptable qualification to hold the post.

19. Insofar as the advantage to be gained by these petitioners as they have worked during COVID-19 period is concerned, the Government has already issued G.O.Ms.No.299, Health and Family Welfare Department dated 12.09.2023, under which it was provided that additional marks or grace marks would be given depending upon the duration for which they have worked during COVID-19 period. Therefore, that advantage also is going to be provided to these appellants / writ petitioners.

20. Insofar as the reduction of the consolidated pay from Rs.20,000/- to Rs.14,000/- or Rs.11,000/- per month for some years,



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that issue is not directly confronted here. The reason being that, Rs.20,000/- consolidated pay fixed by the Government at the time of engaging them during the COVID-19 period is only on adhoc basis and once the COVID-19 period was over, these people had to be ousted. Most of them ie., more than 1500 people have already been ousted and only 85 others and these writ petitioners/appellants, in whose case interim order had been granted, are continuing. Honouring the interim order and subsequent orders, instead of sending these people out of employment, even on adhoc basis, they have been shifted to National Health Mission Scheme, where consolidated pay will be paid from the funds sanctioned by the Central Government. Therefore, salaries were paid out of the sanctioned amount under the Scheme. Hence, there has been every justification on the part of the Government to reduce the said pay, which in fact has been discussed by the learned Judge and that issue has also been answered in favour of the Government and against the employees, which also we approve.

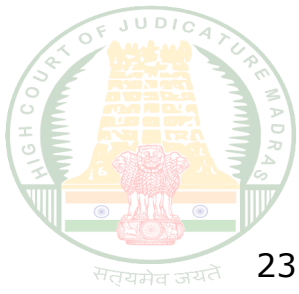
21. Therefore, insofar as the present move of the Government to consider the judgment already been given on 11.09.2024 in W.P.(MD) Nos.18405 of 2024 etc., batch by the Madurai Bench of this Court, whereby an indication has been given to conduct competitive examination seems to have engaged the attention of the Government and it is pending



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before the Government. As stated by the learned Standing Counsel for the respondents 1 and 2, within a shortest possible period, decision would be taken by the Government allowing the Medical Recruitment Board to initiate selection process afresh, which includes competitive written examination also. Once such a competitive examination is conducted as a part of the recruitment process, where all eligible candidates including the writ petitioners / appellants since can participate as their qualification is also acceptable one, there could be no further impediment for these people to participate in the said selection process.

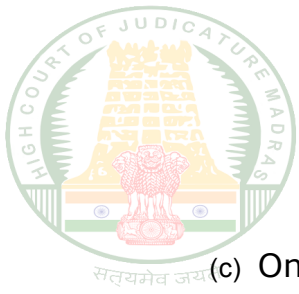
22. Insofar as the plea raised by the appellants that some of them have crossed the upper age limit and therefore age relaxation has to be given, that observation has already been made by the learned Judge in Para 16 of the order impugned, which we uphold herein and we also feel that these writ petitioners / appellants since have already been engaged during the COVID-19 period, which is one of the worst affected period on the health side of this century and therefore during the said tough period since they had been engaged and working, for which, if there has been any upper age limit fixed for holding the post in the fresh selection process, the Government shall consider giving age relaxation to those who have crossed the upper age limit favourably, as observed by the learned Judge.



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23. Therefore, in all respects the grievance of the appellants seems to have been redressed by the Government and therefore considering all these facts and circumstances, this writ appeal is disposed of with the following directions.

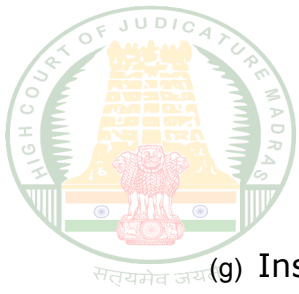
- (a) The respondent Health and Family Welfare Department is hereby directed to take early decision and give direction to the Medical Recruitment Board for issuance of notification to go ahead with the recruitment process for conducting recruitment for 334 posts or any other higher number to be fixed by the Government depending upon the vacancy position as of now, for filling up the post of Multipurpose Health Worker (Male) / Health Inspector Grade-II, by conducting a competitive examination for all the applicants, who are eligible to make applications as per the notification prescribed by giving relaxation to Rule 5(2) under G.O.Ms.No.338, Health and Family Welfare Department dated 02.08.2019.
- (b) Such a decision as indicated in Clause (a) above shall be taken within a period of four weeks from the date of receipt of a copy of this order and be communicated to the Medical Recruitment Board.



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- (c) On receipt of such Government Order to be issued in this regard by the State Health and Family Welfare Department, the Medical Recruitment Board shall proceed to issue notification in accordance with the above observations as well as the Government Order to be issued in this regard, within a period of 30 (thirty) days thereafter.
- (d) Once such a notification is issued, it is open to all the eligible applicants including the present appellants / writ petitioners to participate in the selection process including the written competitive examination.
- (e) In the meanwhile, it is open to the appellants / writ petitioners to make a special request to the Government for giving age relaxation. If such a plea is made by the appellants / writ petitioners or any other similarly placed persons, the same shall be decided immediately well before the last date of receipt of applications made by the Medical Recruitment Board as directed above.
- (f) Insofar as the qualification with regard to the Certificate Course / Diploma Course is concerned, G.O.Ms.No.45 Higher Education Department dated 19.04.2022 can be taken into account.



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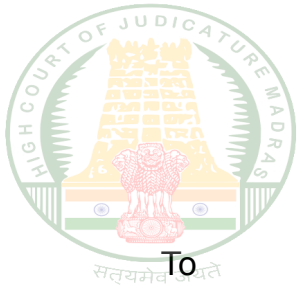
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- (g) Insofar as the additional marks / grace marks for those who had been engaged during the COVID-19 period, the import of G.O.No.299 dated 12.09.2023 shall be scrupulously followed.
- (h) With regard to the claim made by the appellants / writ petitioners pertaining to the reduction of consolidated pay from Rs.20,000/- or any other amount, the order passed by the learned Single Judge is upheld.

24. With the above observations and directions, this writ appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

(R.SURESH KUMAR J.) (A.D.MARIA CLETE J.)
15-04-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
KST



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To

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- 1.The Principal Secretary to Government
Health and Family Welfare Department,
Secretariat, Fort St. George,
Chennai - 600 009.
- 2.The Director of Public Health and Preventive
Medicine, DMS Compound, Anna Salai,
Teynampet, Chennai 600 006.
- 3.The Chairman
Medical Recruitment Board, 7th Floor, DMS
Compound, 359 Anna Salai, Chennai 600006.



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**R.SURESH KUMAR, J.
AND
A.D.MARIA CLETE J.**

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**WA No. 987 of 2023
AND CMP NO. 9867
OF 2023**

15-04-2025