



W.P.No.27604 of 2017

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/IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2025

CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

W.P.No.27604 of 2017

and

W.M.P.No.29528 of 2017

1 R.Balasubramanian [PETITIONER]
S/o.T.P.Rengaiah
No.231 Sathyamurthi Nagar
Pudukottai- 622 001

Vs

1 The State of Tamil Nadu [RESPONDENT]
Rep by its Secretary for Health and Family
Welfare, Fort St. George, Chennai-9

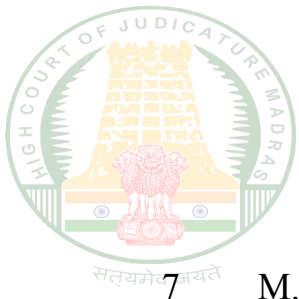
2 The Director
Directorate of Public Health and Preventive
Medicine, Teynampet, Chennai-6

3 The Director
Directorate of Medical Education
Kilpauk, Chennai-10

4 The Director
Directorate of Medical Service
Teynampet, Chennai-6

5 The Secretary
Tamilnadu Public Service Commission
Chennai

6 P.Jayanthi
Assistant Professor
Coimbatore Medical College, Coimbatore



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M.Srinivasan
Assistant Professor
Coimbatore Medical College, Coimbatore

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records in the Proceedings No.52534/N2/1/2016 Dated 03.08.2017 and quash the same as illegal incompetent and ultravires and consequently direct the respondents to promote the petitioner to the post of Assistant Professor for Pharmacy.

(PRAYER AMENDED AS PER ORDER DATED 06.02.2025 in WMP.1925/2025 IN WP.27604/2017 BY TKRJ)

For Petitioner : Mr.M.Venkatesh,
for Mr.K.Vanangamudi.

For Respondents : Mr.K.Tippusulthan,
Government Advocate (For R1 To R4)
Ms.G.Hema,
Standing Counsel (For R5)
Mr.V.S.Jagadeesan (for R6 & R7)

ORDER

This Writ Petition has been filed by the petitioner to call for the records in the Proceedings No.52534/N2/1/2016 Dated 03.08.2017 and quash the same as illegal incompetent and ultravires and consequently direct the respondents to promote the petitioner to the post of Assistant Professor for Pharmacy.

2.According to the petitioner, he joined as Pharmacists at Government Primary Health Centre on 09.11.2000 and now working as Pharamcist at



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Government Hospital, Annavasal, Pudukottai. In the year 2007, there were nearly 20 vacancies for the post of Tutor in Pharmacy (re-designated as Lecturer in Pharmacy and Assistant Professor in Pharmacy), for which, the respondents called upon the heads of medical institutions to furnish the list of M.Pharm qualified candidates for the appointment of the post of Tutor in Pharmacy. Against which, the petitioner herein and the similarly aggrieved persons approached this Court by way of W.P.No.14058/2009 and an interim relief was also granted in the said writ petition on 23.12.2009. The Madurai Bench of this Court disposed the said Writ Petition on 15.12.2014. In the meanwhile, by virtue of G.O.Ms.No.84 dated 11.09.2006, the direct recruitment to the post of tutor in pharmacy (now re designated as Lecturer in Pharmacy and Assistant Professor in Pharmacy) were filled up by temporary appointment through employment exchange without conducting the competitive examination. The petitioner as per the direction of this Court sent a detailed objection to the respondents by way of representation dated 27.05.2016 by RPAD and the 2nd respondent had passed the impugned order in proceedings No.52534/N2/12016 dated 03.08.2017.

3.Learned Government Advocate has filed counter affidavit on behalf of



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respondents 1 to 4. The learned counsel for the 5th respondent has adopted the counter affidavit filed by the respondents 1 to 4.

4.Learned counsel for the petitioner would submit that based upon the information furnished to the petitioner under RTI Act, he came to know that there are three vacancies in the State of Tamil Nadu, for which he is eligible for promotion and accordingly, he submitted a representation by relying upon the judgment of the Madurai Bench of this Court in WP.(MD).No.14058 of 2009 dated 15.12.2014 and subsequently, filed Writ Petition in W.P.No.7575 of 2017 which was disposed on 20.04.2017, with a direction to the respondents therein to consider the representations of the petitioner dated 26.07.2016 and 15.10.2016 and to pass an appropriate orders within a period of eight weeks from the date of receipt of a copy of that order. Subsequently the impugned order was passed on 03.08.2017, wherein the official respondents observed that in respect of 28 posts, seniority list has been made among the candidates who have completed M.Pharm degree as contemplated in G.O.No.108 Public health and family welfare department dated 07.10.2015 and for those who have completed B.Pharm degree separate seniority list was prepared and the petitioner has not completed his M.Pharm degree at the time of drawing of the



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panel and hence the petitioner was not eligible.

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5.Learned counsel for the petitioner would contend that in the impugned order the names of the private respondents/respondents 6 & 7 have been mentioned and therefore, the petitioner has included their names as party to this proceedings.

6.Learned counsel for the private respondents would submit that the private respondents are fully qualified to the promotional post as they are holding B.Pharm (I class) and they are unnecessary party to this proceedings and seeks discharge of them from the proceedings.

7.In the counter affidavit filed by the respondents 1 to 4, the details of method of appointment and educational qualification were stated as follows:

“ i) Method of Appointment:

- a) By transfer from the holders of the post of Lecturer in the respective speciality in Government Medical College; or*
- b) By recruitment by transfer from any other category in Tamil Nadu Medical Subordinate Services; or*
- c) By direct recruitment, if no qualified candidate is available by the*



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above two methods.

ii) Educational qualification:

a) By Transfer and Recruitment by transfer

Mush have obtained M.Pharm Degree in the appropriate branch of specialization in Pharmacy with first class either in B.Pharm or M.Pharm.

b) By direct recruitment

Must have obtained M.Pharm Degree in the appropriate branch of specialization in Pharmacy with first class either in B.Pharm or M.Pharm”

8.Heard the learned counsel for the respective parties and perused the available records.

9.According to the official respondents the petitioner was not qualified as per the qualification prescribed by AICTE for the post of Lecturer in Pharmacy/Tutor in Pharmacy (re-designated as Assistant Professor in Pharmacy) during the year 2015, i.e., when the temporary promotion given to those candidates who are having M.Pharm qualification subject to State wide seniority and the petitioner has completed his M.Pharm degree during the year 2016 alone. Further this Court has not given any positive direction to promote



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or absolve the person in the said cadre. It remains to be stated that only based upon the orders of this Court dated 16.03.2017 in W.P.No.12656 of 2015, the Government has regularised the services in the post of the tutor in Pharma from the date of their joining vide G.O.No.154 dated 25.04.2018 and hence, I find that at the time of giving temporary promotion to those candidates, which the petitioner had referred to, the petitioner was not qualified, since he has qualified his M.Pharm degree only in the year 2016.

10. Therefore, I do not find any merits in this Petition and hence, this Writ Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

20.02.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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RMT.TEEKAA RAMAN.J,
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To

- 1 The Secretary For Health and Family
Welfare,
Fort St. George, Chennai-9
- 2 The Director,
Directorate of Public Health and Preventive
Medicine,
Teynampet, Chennai-6
- 3 The Director
Directorate of Medical Education
Kilpauk, Chennai-10
- 4 The Director
Directorate of Medical Service
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- 5 The Secretary
Tamilnadu Public Service Commission
Chennai

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Dated: 20.02.2025