



W.P.(MD)Nos.4288 and 13880 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 09.04.2025

PRONOUNCED ON : 25.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE SHAMIM AHMED

W.P.(MD)Nos.4288 and 13880 of 2021

and

W.M.P.(MD)Nos.3473, 10838, 10840 and 10844 of 2021

W.P.(MD)No.4288 of 2021:

Balasubramanian,
S/o.S.Ravi,
Plot No.A-11, Rajan Grove,
Melakkal Main Road,
Thuraiman,
Madurai District – 625 019.

Petitioner

Vs

1. The State of Tamil Nadu,
Represented by its Secretary,
Health and Family Welfare (C2) Department,
St.George Fort,
Chennai.
2. The Member Secretary,
Medical Service Recruitment Board,
7th Floor, DMS Buildings,
359, Annasalai, Teynampet,
Chennai – 6.



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3. The Nodal Officer,
Chief Ministries Comprehensive Health Insurance Scheme (CMCHIS),
Government Medical College Hospital,
Sivagangai, Sivagangai District.

4. The President,
Government Medical College Hospital,
Sivagangai, Sivagangai District.

Respondents

Prayer:- This Writ Petition has been filed, under the Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the Respondents to appoint the Petitioner as Dialysis Technician Grade-II in one of the post identified by the 1st Respondent in G.O.(D)No.817 dated 14.09.2020.

For Petitioner	: Mr.R.Maheswaran
For Respondents	: Mrs.P.B.Ahmed Yasmeen Parveen Government Advocate R-1, R-3 & R-4 Mr.V.Ramesh Standing Counsel for R-2

W.P.(MD)No.13880 of 2021:

Balasubramanian,
S/o.S.Ravi,
Plot No.A-11, Rajan Grove,
Melakkal Main Road,
Thuraiman,
Madurai District – 625 019.

Petitioner



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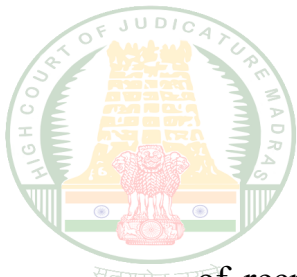
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Vs

- 1.The Tamil Nadu Public Service Commission,
Represented by its Secretary,
Health and Family Welfare (C2) Department,
St.George Fort,
Chennai.
- 2.The Member Secretary,
Medical Service Recruitment Board,
7th Floor, DMS Buildings,
359, Annasalai, Teynampet,
Chennai – 6.
- 3.The Nodal Officer,
Chief Ministries Comprehensive Health Insurance Scheme (CMCHIS),
Government Medical College Hospital,
Sivagangai, Sivagangai District.
- 4.The President,
Government Medical College Hospital,
Sivagangai, Sivagangai District.

Respondents

Prayer:- This Writ Petition has been filed, under the Article 226 of the Constitution of India, to issue a Writ of Certiorari and Mandamus, to call for the entire records relating to the impugned notification in Notification No: 01/MRB/2021 dated 06.02.2021 on the file of the 2nd Respondent and quash the same and further direct the Respondents to proceed with process



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of recruitment for Dialysis Technician Grade-II by conducting a special
test.

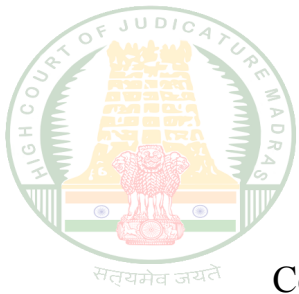
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For Petitioner : Mr.R.Maheswaran

For Respondents : Mr.V.Panneer Selvam
Standing Counsel
R-1
Mrs.P.B.Ahmed Yasmeeen Parveen
Standing Counsel
R-3 & R-4
Mr.V.Ramesh
Standing Counsel
R-2

COMMON ORDER

1. The Writ Petition in W.P.(MD)No.4288 of 2021 has been filed, under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the Respondents to appoint the Petitioner as a Dialysis Technician Grade-II in one of the posts identified by the 1st Respondent in G.O.(D)No.817 dated 14.09.2020.
2. The Writ Petition in W.P.(MD)No.13880 of 2021 has been filed, under Article 226 of the Constitution of India, to issue a Writ of



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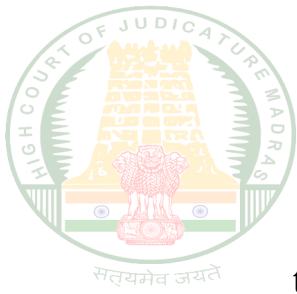
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Certiorari and Mandamus, challenging the impugned notification in Notification No: 01/MRB/2021 dated 06.02.2021 on the file of the 2nd Respondent and further direct the Respondents to proceed with the process of recruitment for the post of Dialysis Technician Grade-II by conducting a special test.

3. The facts of case, in a nutshell, led to filing of this Writ Petition and necessary for disposal of same, are as follows:-

(a) The Petitioner completed Higher Secondary Examination in the year 2009 and subsequently, the Petitioner completed a one-year certificate course in Dialysis Technology at Madurai Medical College, which included a three-month internship training at Government Rajaji Hospital, Madurai. Thereafter, the Petitioner joined as a Dialysis Technician at the Apollo Hospital, Madurai, from the year 2012 to 2015.

(b) Under the Chief Minister's Comprehensive Health Insurance Scheme (CMCHIS), posts of Dialysis Technicians were filled on



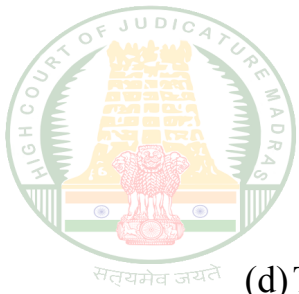
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temporary basis to operate Haemo Dialysis (HD) Machines, which treat patients with acute kidney disease. The 4th Respondent appointed the Petitioner as a 'Multipurpose Hospital Worker' to operate these HD machines from 23.09.2015 to 30.06.2016, and thereafter on 30.06.2016, he was terminated and once again he was appointed for a period from 02.07.2016 to 30.04.2017.

(c) The Petitioner worked as a Dialysis Technician with the 4th Respondent, with a one-year break in between, and was employed from 02.05.2020 to 30.04.2021. Notably, during the COVID-19 pandemic, the Petitioner, as a Dialysis Technician, provided critical services, including dialysis treatment to COVID-19 patients who developed acute kidney injury or exacerbation of chronic kidney disease, adhering to strict quarantine protocols. The Petitioner demonstrated dedication and satisfaction in his work during this challenging period.



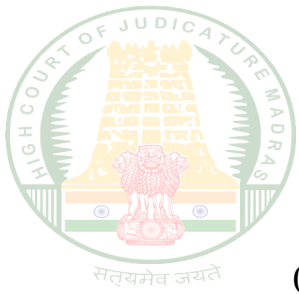
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(d) The petitioner has approached the court through two writ petitions.

In W.P.(MD)No.4288 of 2021, the petitioner seeks a direction to appoint him as Dialysis Technician Grade-II in one of the posts identified by the 1st respondent in G.O.(D)No.817 dated 14.09.2020. The background to this petition is that the 1st respondent issued a Government Order identifying 292 posts of Dialysis Technician to be filled up in Government Medical College Hospitals across the State on a temporary basis for a period of one year on a consolidated pay. The petitioner's employment was set to end on 30.04.2021, and filling up these posts would likely mean that his employment would not be extended beyond that date.

(e) In W.P.(MD)No.13880 of 2021, the petitioner challenges the notification issued by the 2nd respondent on 06.02.2021, calling for applications to fill up the posts of Grade II Dialysis Technician on a consolidated pay for a period of one year. The petitioner's grievance is that despite applying for the post, his name was not included in the list of candidates called for certificate verification scheduled on



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04.08.2021. The 2nd respondent had adopted a weightage-based system to shortlist candidates, assigning 20% weightage to SSLC marks, 30% to HSC marks, and 50% to marks scored in the Certificate course in Dialysis Technology. The petitioner contends that this selection procedure is illegal, absurd, and suffers from non-application of mind. He seeks to quash the impugned notification and requests the respondents to conduct a special test for the recruitment of Dialysis Technician Grade-II.

4. Heard Mr.R.Maheswaran, learned counsel for the Petitioner, Mr.V.Panneer Selvam, learned Standing Counsel for Tamil Nadu Public Service Commission, Mrs.P.B.Ahmed Yasmeen Parveen, learned Government Advocate for the Respondents 1, 3 & 4 and Mr.V.Ramesh, learned Standing Counsel for the 2nd Respondent.
5. The learned counsel for the Petitioner submits that the Petitioner applied for the Grade II Dialysis Technician posts notified by the 2nd Respondent on 06.02.2021, which offered a consolidated pay for one

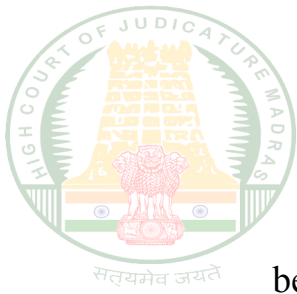


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year. However, the Petitioner was not shortlisted for certificate verification scheduled on 04.08.2021. The learned counsel contends that the selection procedure adopted by the 2nd Respondent is unreasonable. The procedure involves shortlisting candidates based on a weightage system that assigns marks as follows: 20% for SSLC, 30% for HSC, and 50% for the Certificate course in Dialysis Technology. According to the counsel, this system demonstrates a lack of proper consideration. The learned counsel further submits that the Petitioner seeks not only to quash the notification but also requests a Writ of Mandamus, directing the Respondents to appoint him as Dialysis Technician Grade-II in one of the posts identified by the 1st Respondent in G.O.(D)No.817 dated 14.09.2020.

6. Per contra, Mr.V.Ramesh, learned Standing Counsel for the 2nd Respondent/ The Member Secretary of Medical Service Recruitment Board, contends that the relief sought in the petition has become infructuous, since the notification was issued in the year 2021, and the certificate verification and subsequent appointments have already



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been completed and therefore, the petitioner cannot seek to set aside the notification at this stage, after the selection process has been completed. Thus, the learned counsel for the 2nd Respondent prays for the dismissal of the Writ Petition, as having become infructuous.

7. Mrs.P.B.Ahmed Yasmeen Parveen, learned Government Advocate for the Respondents 1, 3 & 4 and Mr.V.Panneer Selvam, learned Standing Counsel for the TNPSC, concurred with the submissions made by the learned counsel for the 2nd Respondent and both the writ petitions filed by the petitioner are being decided together as a common issue is involved in both cases.
8. I have given my careful and anxious consideration to the contentions put forward by the learned counsel on either side and also perused the entire materials available on record.
9. It is not in dispute that the petitioner was appointed under the Chief Minister's Comprehensive Health Insurance Scheme as a



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Multipurpose Hospital Worker on a temporary contract basis. The appointment order clearly states that the appointment is temporary and doesn't offer priority consideration for future positions within the Chief Minister's Comprehensive Health Insurance Scheme or other government works. The terms of appointment also specify that the Chief Minister reserves the right to terminate the service without prior notice, emphasizing the temporary nature of the appointment.

10. The petitioner seeks for a direction against the respondents to appoint him as Dialysis Technician Grade-II in one of the posts identified by the first respondent in G.O.(D)No.817 dated 14.09.2020. Upon perusing the said Government Order, it is seen that the Dialysis machines are available in all Tamil Nadu Government Medical College Hospitals. Dialysis Technicians are currently employed temporarily at a salary of Rs. 15,000/- through the Chief Minister's Comprehensive Health Insurance Scheme (CMCHIS) fund. Temporary Dialysis Technicians are reluctant to attend duty due to apprehension and sense of insecurity during the pandemic. Hence,



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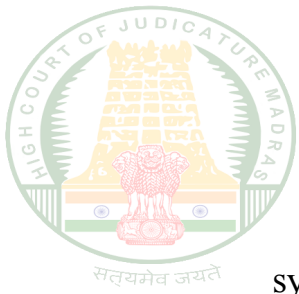
the Director of Medical Education requested for creating 412 Dialysis Technician posts in 26 government medical college hospitals through the Medical Services Recruitment Board on a contract basis for two years. Upon such request, the Government sanctioned 292 Dialysis Technician posts for a period of one year at a consolidated pay of Rs.20,000/- considering the rising number of patients requiring dialysis and the need to provide care to COVID-19 affected patients. Thus, the Government Order reveals that temporary Dialysis Technicians' apprehension and sense of insecurity during the COVID-19 pandemic have led to their reluctance to attend duty, emphasizing the need for stable employment arrangements. In response, the Government has sanctioned 292 Dialysis Technician posts for a year, offering a consolidated pay of Rs. 20,000/-. By sanctioning these posts, the Government seeks to ensure sufficient staffing in hospitals, thereby meeting the increasing demand for dialysis and COVID-19 care.



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11. When the petitioner questioned the selection procedure for the post of Grade II Dialysis Technician, specifically objecting to the weightage system used for shortlisting candidates, which allocates 20% to SSLC marks, 30% to HSC marks, and 50% to the marks obtained in the Certificate Course in Dialysis Technology, their claim appears to be unfounded and lacks merit. Upon examining the relevant notification, it is clearly stated under Paragraph 7, titled "Procedure of Selection," that selection will be based solely on the marks obtained by candidates in their academic and technical qualifications for the post of Dialysis Technician Grade-II in Government Medical College Hospitals. This selection process is conducted in accordance with the rules of reservation and communal rotation prescribed by the Government of Tamil Nadu, and candidates must also meet the required qualifications and other stipulated conditions. Importantly, the notification specifies that there will be no oral test (interview) for this post. It also clearly prescribes the weightage of marks as follows: 50% for the one-year Certificate Course in Dialysis Technology, 30% for HSC/PUC, and 20% for SSLC/10th. This clear and transparent



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system ensures that candidates are mainly evaluated based on their academic performance and technical skills, with a strong focus on their training in dialysis technology. Therefore, the petitioner's claim of illegality in the weightage system is without substance, as the selection criteria were clearly laid out in the notification and were publicly known. Since the petitioner was already aware of the selection criteria outlined in the official notification, their claim that the procedure is improper or unfair is further invalidated.

12. It is to be noted that the selection process including certificate verification and the issuance of appointment order has already been completed. At this stage, any interference would not only be inappropriate but would also affect the rights of those who have already been selected and appointed. Courts have consistently held that a candidate who participates in a selection process with full knowledge of its procedures cannot later challenge those procedures simply because they were not selected. In this case, the petitioner did not raise any objections to the selection criteria when the notification



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was first issued. Instead, the petitioner has approached the Court only after being excluded from the list of shortlisted candidates. Furthermore, the impugned notification was issued in the year 2021, and the process has since culminated. Allowing the petition at this stage would serve no useful purpose and would only unsettle a concluded selection process. Hence, the contention of the petitioner that a separate special test should be conducted does not merit acceptance and is devoid of legal justification.

13. With regard to the relief sought in W.P.(MD) No. 4288 of 2021, which seeks a direction to appoint the petitioner to one of the posts identified in G.O.(D) No. 817 dated 14.09.2020, it is important to clarify that the said Government Order merely identified certain posts for temporary appointment on a consolidated pay basis. It does not grant the petitioner any legal or vested right to be appointed to those posts. Furthermore, being temporarily engaged under specific schemes, such as the Chief Minister's Comprehensive Health Insurance Scheme (CMCHIS), cannot be considered equivalent to a



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regular appointment. Such temporary engagements do not create any legitimate expectation of regularization or entitlement to future vacancies.

14. In view of the above discussion, this Court finds no merit in either of the writ petitions. Accordingly, both W.P.(MD)No.4288 of 2021 and W.P.(MD)No.13880 of 2021 are dismissed. It is open to the petitioner to address his grievances, if any, to the competent authority with regard to the future appointment. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

25.04.2025

NCC:yes/no
Index:yes/no
Internet:yes/no

Nsr



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To:

- 1.The Secretary,
The State of Tamil Nadu,
Health and Family Welfare (C2) Department,
St.George Fort,
Chennai.
- 2.The Secretary,
The Tamil Nadu Public Service Commission,
Health and Family Welfare (C2) Department,
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SHAMIM AHMED, J.

Nsr

Pre-Delivery Order in
W.P.(MD)Nos.4288 and 13880 of 2021

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