



ABSTRACT

Recruitment - Recruitment for the post of Laboratory Technician Grade-II based on State-wide Employment Exchange Seniority - Orders issued.

HEALTH AND FAMILY WELFARE (C2) DEPARTMENT

G.O.(Ms).No.22

Dated: 29.01.2010
Thiruvalluvar Aandu 2040
Thai -16.

Read:

1. G.O.(Ms) No.39, Health and Family Welfare Department, dated 5.2.2007.
2. Government Letter No.55132/ C2 / 2007-2, Health and Family Welfare Department, dated 7.1.2008.

Read also:

3. Orders of Hon'ble High Court of Madras, dated 17.7.2008 in W.P. Nos.7061, 7062, 7136 to 1739/2008 filed by Thiru M.Rameshkumar and 5 others.
4. Orders of Hon'ble High Court of Madras, dated 18.7.2008 in W.P. No.7159/2008 filed by Two Years Diploma Medical Laboratory Technician Association.
5. Orders of Hon'ble Madurai Bench of Madras High Court, Madurai, dated 08.09.2008 in W.P. No. W.P.Nos.6588, 6597, 6708, 6567 to 6575/2008 filed by Tmt. R.Karpagavalli and others.
6. Special Government Pleader(Education), High Court, Chennai, Letter dated 24.7.2009.

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ORDER:

Under the existing rules, the post of Laboratory Technician Grade-II in the Tamil Nadu Medical Subordinate Service, under the control of the Health and Family Welfare Department, is filled up based on the District Employment Exchange seniority by the Head of Institutions and Joint Director of Health Services in Districts.

2. In the G.O.Ms.No.39, Health and Family Welfare Department, dated 5.2.2007 first read above, certain amendments were issued to the Special Rules for the Tamil Nadu Medical Subordinate Service classified under Branch-IV, Class-III of the said service for the post of Lab. Technician Grade-II. While making amendment the following qualifications were prescribed for the post of Laboratory Technician Grade-II:

"A Diploma in Medical Laboratory Technology Course (two years duration) conducted by the King Institute of Preventive Medicine or from any other Institution recognized by the Government of Tamil Nadu for this purpose. Provided that, if candidates with the above qualification are not available then candidates with Certificate in Medical Laboratory Technology (one year) duration conducted by the institutions recognized by the Government of Tamil Nadu for this purpose may be appointed."

3. In the Government Letter No.55132/ C2 / 2007-2, Health and Family Welfare Department, dated 7.1.2008. second read above, certain clarifications were issued, to the effect that when the qualified candidate with DMLT qualification is not available, it should be ensured that the candidates with DMLT is not available in other districts also and then the persons with the CMLT qualification be considered for the post of Lab Technician Grade-II.

4. Aggrieved by the above clarifications, a Batch of Writ Petitions (W.P.Nos.7061, 7062, 7136 to 7139/2008 and 7159/2008) have been filed by Thiru M.Rameshkumar and five others and Two Years Diploma Medical Laboratory Technician Association respectively before the High Court of Madras with a prayer to appoint the Lab Technician Grade-II with DMLT by following the State-wide seniority. Similarly a batch of Writ Petitions (W.P.Nos.6588, 6597, 6708, 6567 to 6575, 4580, 3252, 2171 and 3585/2008), have also been filed by Tmt. R.Karpagavalli and others before the Madurai Bench of Madras High Court at Madurai with a prayer to appoint the Lab Technician Grade-II with CMLT Certificate by following the District-wide Seniority without following the clarifications issued in the Government Letter second read above.

5. In its orders dated 17.7.2008 and 18.7.2008 third and fourth read above, the Hon'ble High Court of Madras, among other things ordered that the respondents are not entitled to select the Lab. Technician Grade-II only from the list obtained from the local District Employment Exchange and publication of advertisements throughout the State is required to be made so that the willing candidates eventhough registered in different districts in the State can offer their candidature for selection.

6. Further, in its order dated 18.6.2008 in W.P.No.2171/2008 filed by Tmt. U.Subha and others, the Hon'ble Madurai Bench of Madras High Court has directed the Government to consider the claim of the petitioners (i.e. with CMLT

qualification and by following the district-wide seniority) to the post of Lab. Technician Grade-II. The Madurai Bench of Madras High Court, Madurai in the Writ Petitions filed by some of the petitioners (viz. 4580, 3252, 3585/2008 filed by Tmt. G.Muthu Uma Maheswari, U. Subha and 4 others and Thiru K.Balakrishnan and 17 others respectively) has passed interim orders also. In its order dated 8.9.2008 fifth read above, the Hon'ble Madurai Bench of Madras High Court, Madurai (W.P.No. 6588/08, 6597 and 6708 /2008, 6567 to 6575/ 2008), among other things passed orders directing the Government to consider the claim of petitioners and pass orders in regard to the appointment (i.e. with CMLT qualification and by following the district-wide seniority) of the petitioners to the post of Lab. Technician Grade-II.

7. Since the judgement delivered by the Hon'ble High Court of Madras and the Hon'ble Madurai Bench of Madras High Court, Madurai are different, learned opinion of the Special Government Pleader (Education), O/o the High Court, Chennai was sought for. The Special Government Pleader(Education), High Court, Chennai, among other things, has opined as follows:

- i) "that it would be appropriate to proceed to fill up the post of Lab. Technician Gr.II by following State wide Employment Exchange seniority by calling list of eligible persons from all the District Employment Exchanges and by making publication through advertisement throughout the State to enable any willing candidates eventhough registered in different districts to participate in the selection by making it clear that the selection would be based on the Employment Exchange seniority on compliance to the orders passed by the High Court in W.P.No.7061/2008.
- ii) In respect of the orders passed by the Madurai Bench of Madras High Court, wherein contra decision has been taken, it is understood that Writ Appeals have been preferred on behalf of the respondent State. Therefore, appropriate steps are to be taken to pursue the Writ Appeal immediately without any further delay. Pending decision in such writ Appeals preferred in this regard in order to protect the interest of the W.Ps. therein and to avoid any contempt of court, equal number of posts for the petitioners in the respective districts are to be kept vacant. In respect of the remaining vacancies, appropriate steps can be taken to fill up the post as per the procedure as stated above."

8. In another Writ Petition (W.P No.13001/2008) filed by the Tamil Nadu Arasu Paniyalargal Sangam before the Hon'ble High Court of Madras, with reference to absorption of outsourced employees in the regular time scale of pay, the Hon'ble High Court of Madras, in its order dated 27.5.2008 passed interim orders directing that the status quo be maintained and the case has not yet been disposed off as Lab. Technician Grade-II post is one among the outsourced posts and the incumbents are

working in various Hospitals under the control of Health and Family Welfare Department.

9. The Government have examined the case carefully and decided to accept the learned opinion of the Special Government Pleader (Education), High Court of Madras, Chennai and take a policy decision on the recruitment of Laboratory Technician Grade-II posts under the control of the Health and Family Welfare Department.

10. The Government, accordingly, issue the following orders for the recruitment of Laboratory Technician Grade-II posts from the date of issue of this order:

- a. vacant posts of Lab. Technician Grade-II be filled up by calling for the list of eligible candidates from all the District Employment Exchanges of the State and by giving wide publicity through advertisement in the Newspapers throughout the State so as to enable any willing candidate with DMLT qualification eventhough registered in different districts to participate in the selection by making it clear that the selection would be based on the State-wide Employment Exchange seniority.
- b. The Joint Director (Admin), Office of the Director of Medical and Rural Health Services, Chennai be designated as the Nodal Officer who will consolidate the Lab Technician Grade-II vacancies from Directorates of Medical and Rural Health Services, Medical Education, Medical and Rural Health Services (ESI) and notify them to the Director of Employment and Training to get the list of eligible qualified candidates (with DMLT qualification) registered in the Employment Exchange besides newspaper open advertisement throughout the State. A Committee consisting of the Director of Medical and Rural Health Services, the Director of Medical Education, and Director of Medical and Rural Health Services (ESI) shall select the candidates based on the State-wide Employment Exchange seniority and allot the candidates to these three Directorates based on the estimate of vacancies approved by the Government to each Directorate.
- c. A number of posts be kept vacant for the petitioners with CMLT qualification who have filed Writ Petitions (W.P.Nos.6588, 6597, 6708, 6567 to 6575, 4580, 3252, 2171 and 3585/2008) on whose favour the Madurai Bench of Madras High Court, Madurai passed orders, and subject to the outcome of in the Writ Appeal to be filed by the Government.
- d. Lab Technician Grade-II posts in which outsourced personnel are working be not filled up in view of the stay granted by the Hon'ble High Court of Madras, dated 27.5.2008 in W.P.No.13001/2008 filed by Tamil Nadu Arasu Paniyalargal Sangam.

11. Necessary amendment to Special Rules for the post of Laboratory Technician Grade-II in the Tamil Nadu Medical Subordinate Service will be issued separately.

(BY ORDER OF THE GOVERNOR)

V.K. SUBBURAJ
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Director of Medical and Rural Health Services, Chennai-6.
The Director of Medical Education, Chennai-10.
The Director of Medical and Rural Health Services (ESI), Chennai-6.
The Joint Director(Administration),
Office of the Director of Medical and Rural Health Services, Chennai-6.
The Director of Employment and Training, Guindy, Chennai.
The Accountant General, Chennai-18/35.

Copy to

The Chief Minister's Office, Chennai-9.
The Personnel and Administrative Reforms Department, Chennai-9.
SF/SC.

// FORWARDED BY ORDER//

SECTION OFFICER.