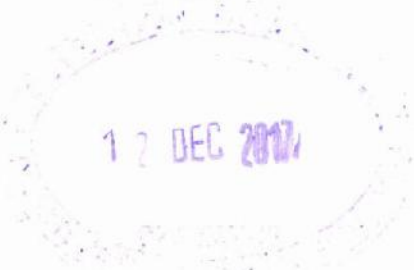


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ABSTRACT

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Committee – Constitution of Committee to re-define / identify Primary Health Centre / Hospitals located at remote / difficult areas for awarding incentive marks to the service candidates for the admission to Post Graduate Degree / Diploma courses for the academic year 2018-19 – Orders – Issued.

HEALTH AND FAMILY WELFARE (MCA-1) DEPARTMENT

G.O. (Ms.) No.466

Dated : 11.12.2017
Thiruvalluvar Aandu 2048
Yevilambi, Karthigai – 25

1728

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1. Regulation 9 (IV) of the Post Graduate Regulations 2000.
2. G.O.(D)No.1054, Health and Family Welfare (MCA.1) Department, dated 06.05.2017
3. From Thiru. T.N.Rajagopalan, Government Pleader (i/c), High Court of Madras opinion dated : 01.12.2017.

ORDER :-

The Medical Council of India has amended the Regulation 9 (IV) of the Post Graduate Medical Education Regulation 2000 by introducing proviso to Para – IV and Para-VII. Para-IV and Para-VII as amended read as under :-

“(IV) The reservation of seats in medical colleges / institutions for respective categories shall be as per applicable laws prevailing in States / Union Territories. An all-India merit list as well as State-wise merit list of the eligible candidates shall be prepared on the basis of the marks obtained in National Eligibility-cum-Entrance Test and candidates shall be admitted to postgraduate courses from the said merit lists only:

Provided that in determining the merit of candidates who are in service of Government / public authority, weightage in the marks may be given by the Government / competent authority as an incentive at the rate of 10% of the marks obtained in National Eligibility-cum-Entrance Test, the remote and difficult areas shall be as defined by the State Government / competent authority from time to time”.

2. There were several cases filed in the Hon'ble High Court of Madras regarding admission to Post Graduate courses, with incentive marks to the Service Post Graduate as well as with counter claim in this regard. The Hon'ble High Court of Madras dated 17.04.2017 in W.P.No.6031 of 2017 has directed as follows :-

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“to follow Regulation 9 (IV) of the Post Graduate Medical Education Regulations, 2000 of the Medical Council of India by adding 30% marks on the marks secured by the petitioner in the NEET examination while preparing the rank list for admission to the Post Graduate Course in 50% reserved

category for Government Servants for the academic year 2017-2018, as Regulation 9 is the only effective and permissible basis for granting admission to in-service candidates. It is made clear that admissions can and ought to be made only on the basis of the above."

3. Subsequently in the batch of appeals, the Hon'ble High Court has held that the incentive marks should be given in accordance with Regulation 9 of the Post Graduate Medical Education Regulations 2000. However, the learned Judge held that the decision of the Government in identifying the rural/remote/difficult areas for the year 2017-18 does not warrant any interference in view of the paucity of time. This judgment of the third Judge was passed on 6-5-2017. Based on the above orders of the Hon'ble Court, the Government issued an amendment to notify the area of remote / difficult area, those places included in the Clauses 17(b) and Annexure VII of the prospectus without adding any new places in the G.O. second read above and admission for Post Graduate Degree / Diploma courses for the academic year 2017-18 was completed. Against the above said G.O. certain Writ Petitions were already filed (W.P.No.12246/17 and others) before the High Court of Madras with a prayer to struck down the said G.O. In its Common orders dated 16.06.2017, the High Court of Madras has struck down portions of the G.O. by observing as follows :-

"That G.O.Ms.No.1054, dated 06.05.2017 is quashed to the extent that amendments to prospectus dated 27.03.2017 which allow the State Government to grant weightage in terms of proviso to Regulation 9 (IV) qua PHCs located in rural areas and to the Government Hospitals / Primary Health Centres / Government Medical College Hospitals located in TNR Districts".

The Government have filed a Special Leave Petition before the Supreme Court of India against the above said order and the Hon'ble Supreme Court has stayed the orders of the High Court of Madras. The Special Leave Petition is still pending in Supreme Court.

4. In this regard the Government have taken note of the following observation of the Hon'ble Supreme Court of India, in Dinesh Singh Chauhan -Vs- State of Uttar Pradesh & Others [2016 [9] SCC 749]" in this regard :-

"The application of Regulation 9 results in an absurd situation because of giving weightage to specified in-service Medical Officers in the State. There is neither any committee set up nor guidelines made as to which area can be notified as remote and difficult area. The power vested in the State is an un-canalized power and disregards the settled position that for consideration after the graduate level, merit should be the sole criteria. Further, there is no nexus with the object sought to be achieved for providing weightage to the extent of 10% of the marks obtained by the candidate in the common competitive test and to the extent of maximum of 30% marks so obtained. Dealing with this contention, we find that the setting in which the proviso to Clause IV has been inserted is of some relevance. The State Governments across the country are not in a position to provide health care facilities in remote and difficult areas in the State for want of Doctors".

5. The Government have therefore decided to constitute a Committee to re-define / identify Primary Health Centre / Hospitals located at remote / difficult

areas for awarding incentive marks to the service candidates for the admission to Post Graduate Diploma / Degree Courses for the academic year 2018-19, as detailed below and order accordingly :-

| | | | |
|----|--|---|---------------------------------|
| 1) | Dr.P.Umanath, IAS., Managing Director, Tamil Nadu Medical Services Corporation | - | Chairman |
| 2) | The Director of Public Health and Preventive Medicine, Chennai-6 | - | Member |
| 3) | The Director of Medical Education, Chennai-10 | - | Member |
| 4) | The Director of Medical and Rural Health Services, Chennai-6 | - | Member |
| 5) | One Demography expert from the University of Madras / Anna University / Department of Statistics as decided by the Chairman | - | Member |
| 6) | Additional Director of Medical Education / Secretary, Selection Committee, O/o. the Director of Medical Education, Chennai-10 | - | Member Secretary convener |

6. The Terms of Reference for the Committee shall be as follows :-

- (i) The Committee can get suggestions from the Head of Departments, Tamil Nadu Government Doctors Association and other Associations and interested stake holders on finding out the remote / difficult areas for awarding incentive marks to the service Doctors in the said areas in consonance with the Medical Council of India's Post Graduate Regulations.
- (ii) The Committee would give the report / recommendations, for identifying the remote / difficult areas for awarding incentive marks to Service Doctors to Government within a month's time.
- (iii) The Committee would also look at tightening the rules vis-à-vis deputation / diversion as well as Post Graduate Service after acquiring the degree.

7. The Committee can be a first class Committee for the purpose of Travelling Allowance / Daily Allowance and sitting allowance and that the expenses shall be charged under the Personal Deposit account of the Selection Committee.

8. The Director of Medical Education / Director of Medical and Rural Health Services / Director of Public Health and Preventive Medicine are directed to provide the required details and make necessary arrangements for convening the meeting time to time.

9. This order does not require the concurrence of Finance Department vide G.O. (Ms) No. 519, Finance (Salaries) Department, dated : 29.09.1997.

(BY ORDER OF THE GOVERNOR)

J. RADHAKRISHNAN
PRINCIPAL SECRETARY TO GOVERNMENT

To

Dr.P.Umanath, IAS.,
Managing Director,
Tamil Nadu Medical Services Corporation, Chennai.
The Director of Public Health and Preventive Medicine, Chennai-6
The Director of Medical Education, Chennai-10
The Director of Medical and Rural Health Services, Chennai-6
✓ The Additional Director of Medical Education /
Secretary, Selection Committee,
Office of the Director of Medical Education, Chennai-10.

Copy to :-

The Special Personal Assistant to Hon'ble Minister,
(Health and Family Welfare), Chennai-9.
The Department of Economics and Statistics,
No.259, Block II, DMS Campus, Chennai - 06.
The Registrar, Anna University, Chennai-25.
The Registrar, Madras University, Chennai-05.
Health and Family Welfare (Data Cell) Department, Chennai-9.
S.F./S.C.

// FORWARDED BY ORDER //

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11/12/17
SECTION OFFICER

[Handwritten Signature]
11/12/17