

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 15.11.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.2252 of 2012

1. Dr.M.Shakeel Ahmed
 2. Dr.Mohammed Salamulla
 3. Dr.S.Shazamani
 4. Dr.Mohammed Waseem
 5. Dr.Khaja Mohammed Fariduddeen
- Appellants

Versus

1. The State of Tamil Nadu,
rep. by its Secretary to Government,
Health Department,
Fort St. George, Chennai 600 009.
 2. The Tamilnadu Board of Indian Medicine,
rep. by its Secretary,
Poonamallee High Road (Near Anna Arch)
Arumbakkam, Chennai 600 106.
 3. The Tamil Nadu Public Service Commission,
rep. by its Secretary, Greams Road,
Chennai 600 002.
- Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 6.8.2012 passed in W.P.No.14974 of 2012 on the file of this court.

WP.No.14974/2012:Petition filed under Article 226 of the Constitution of India issue a Writ of Mandamus, Directing the Respondents to apply the amendment made to rule 7 of the Ad-hoc rules governing the post of Assistant Medical Officers (Unani) vide G.O.Ms.No.307 dated 28.11.2011 issued by the 1st Respondent to the 22 unfilled vacancies in the post of Assistant Medical Officers (Unani) notified by the 3rd Respondent vide its advertisement No.208 dated 29.07.2009 and consequently appoint the Petitioners who are eligible Backward Class Muslim candidates in the said posts as per the marks obtained by them in the selection process held on 22.11.2009 13.07.2010 and 14.07.2010 for appointment to the post of Assistant Medical Officer (Unani) in the department of Indian Medicine and

Homeopathy in the Tamil Nadu Medical Service 2007-2008.

For appellants 1, 2, 3 & 5 : No appearance
For 4th appellant : Mr.Haja Mohideen Gisthi
For respondents 1 and 2 : Mr.P.S.Sivashanmugasundaram
Special Government Pleader
For R3 : Ms.C.N.G.Niraimathi

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the parties.

2. The appellants/writ petitioners, who are backward muslim candidates, possessing bachelors degree in Unani Medicine, having participated in the selection process for the post of Assistant Medical Officer (Unani) as against the 27 vacancies notified by the Government, have filed the writ petition contending that the Government had filled up only 5 vacancies and therefore, they need to be considered as against the unfilled 22 vacancies and since their claim was rejected by the learned Single Judge, they have come up with the present writ appeal.

3. The stand of the Government is that the remaining unfilled vacancies are reserved for Scheduled Caste/Scheduled Tribe candidates and since there is no such candidates, such vacancies are carried over unfilled.

4. Reliance is sought to be placed by the petitioners/appellants upon G.O.Ms.No.307, Health and Family Welfare (IM-2(1) Department, dated 28.11.2011 which introduced amendment to Rule 7 of the Ad hoc Rules published in the Health and Family Planning Department Notification dated 4.8.1976 to contend that if no candidates are available for recruitment to the posts of Assistant Medical Officer/Assistant Lecturer (Unani) General Turn/MBC/BC/SC/ST, then the appointment to the posts of Assistant Medical Officer/Assistant Lecturer (Unani) shall be made from the persons belonging to the Backward Communities knowing Urudu language for all vacancies which arise then and there.

5. In the normal course of action, if no candidates are available for being filled up as against the posts earmarked for Scheduled Caste/Scheduled Tribe candidates, such posts would be carried over thrice. In the case one hand, it is also pertinent to note that the amendment to Rule introduced is only retrospective and the same has been rightly appreciated by the learned Single Judge. In that view of the matter, the claim made by the appellants cannot be entertained at this stage and accordingly, the writ appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. The Secretary to Government of Tamil Nadu
Health Department,
Fort St. George, Chennai 600 009.
2. The Secretary
The Tamilnadu Board of Indian Medicine,
Poonamallee High Road (Near Anna Arch)
Arumbakkam, Chennai 600 106.
3. The Secretary /Greams Road
The Tamil Nadu Public Service Commission,
Chennai 600 002.

+1 cc to Mr.S.Haja Mohideen Gisthi Advocate sr 81923
+1 cc to the Govt Pleader sr 81734

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