

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.NO.5118 of 2019

Dr.Mohammed Waseem

.... Petitioner

Vs

1.The Secretary to Government of Tamil Nadu
Health and Family Welfare Department
Fort St.George, Chennai - 600 009.

2.The Secretary, Tamilnadu Board of Indian
Medicine, Poonamallee High Road
Arumbakkam, Chennai - 600 106.

3.The Secretary, Tamilnadu Public Service
Commission, (Office near Broadway Bus Stand)
Chennai 600 104.

... Respondents

Prayer : Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Mandamus
directing the first respondent to consider and pass orders on
the representation of the petitioner dated 24.10.2018 on
merits.

For Petitioner : Mr.Haja Mohideen Gisthi

For Respondents 1&2 : Ms.P.Rajalakshmi,
Additional Government Pleader

For Respondent No.3 : Dr.M.Devendran,
Standing Counsel for TNPSC

O R D E R

Appointment can never be claimed as a matter of right. A candidate eligible for a particular post or cadre cannot file a writ petition, seeking direction from the High Court that the posts are to be filled up, as the candidate is qualified. The very idea made out in this regard is not supported with any legal right. The eligible candidate has no right, whatsoever, to seek for a direction to fill up the posts. Conducting the selection process is the administrative prerogative and the competent authorities have to take a decision to fill up the public posts. In the event of taking an administrative decision to fill up public posts and if any recruitment notification is issued, then alone the eligible candidates can submit their respective applications for the

purpose of participating in the process of selection, in order to secure public employment on merits and through the competitive process. Thus, mere eligibility or possession of qualification would not confer any legal right to file a writ petition and claim that the posts are vacant and therefore, those posts are to be filled up by considering the name of the writ petitioners. Such a claim is in violation to the equality clause enshrined in the Constitution of India. Equal opportunity in public employment is a constitutional mandate. Therefore, all eligible persons must be provided with an opportunity to participate in the process of selection.

2. The writ petitioner claims that he is eligible and qualified for appointment to the post of Assistant Medical Officer (Unani) and therefore in the arising vacancies at Chennai and Trichy, his name must be considered for appointment. Such a relief cannot be granted. Only when a recruitment notification is issued, the writ petitioner is at liberty to participate in the process of selection and secure public employment on merits and based on the rules and regulations and as per the service rules in force. This Court wishes the writ petitioner to get public employment and it is open to the writ petitioner to participate in the selection process. The writ petition is devoid of any merits and stands dismissed. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

KST

To

1.The Secretary to Government of Tamil Nadu
Health and Family Welfare Department
Fort St.George, Chennai - 600 009.

2.The Secretary, Tamilnadu Board of Indian
Medicine, Poonamallee High Road
Arumbakkam, Chennai - 600 106.

3.The Secretary, Tamilnadu Public Service
Commission, (Office near Broadway Bus Stand)
Chennai 600 104.

+1cc to Mr. Haja Mohideen Gisthi, Advocate SR.No. 16720

+1 CC TO GOVERNMENT PLEADER SR.NO.17652

+1cc to Dr.M.Devendran , Advocate SR.No. 16525

W.P.No.5118 of 2019

A.SK(20/03/2019)

<https://hcservices.ecourts.gov.in/hcservices/>