

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.A.No.1738 of 2019
and CMP.No.11694 of 2019

Dr.Mohammed Waseem

...Appellant/Petitioner

-Vs-

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

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

3.The Secretary
Tamil Nadu Public Service Commission
(Office Near Broadway Bus Stand)
Chennai-600 104

...Respondents/Respondents

Prayer:- Writ Appeal filed under Clause 15 of Letters Patent
against the order dated 22.02.2019 in W.P.No.5118 of 2019.

W.P.No.5118 of 2019:

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 Appellant : Mr.S.Haja Mohideen Gisthi
For Respondents: Mrs.A.SriJayanthi
Special Government Pleader

J U D G M E N T

(Judgment of the Court was made by K.K.SASIDHARAN,J.)

The Writ Petition filed by the appellant for issuance of a
writ of Mandamus directing the 1st respondent herein to consider

his representation for appointment to the post of Assistant Medical Officer (Unani) was dismissed by the learned Single Judge. The said order is under challenge in this intra court appeal.

2. The appellant appears to have submitted application for the post of Assistant Medical Officer (Unani). Since there were only three vacant posts available, those who secured more marks than the appellant were appointed. The name of the appellant was included in the Waiting List. The appellant made a claim that the posts reserved for Reserved Category was not filled up and as such there was still a vacancy. The representation was not considered by the respondents resulting in filling the Writ Petition.

3. The learned Single Judge was pleased to dismissed the Writ Petition, opining that the only remedy available to the appellant is to take part in the subsequent selection.

4. We are informed by the learned Special Government Pleader that the Department has filled up all the posts. Subsequently, one post became vacant. The same could not be filled up, in view of the Policy decision that it should be filled up only on the basis of written examination.

5. Even otherwise, there is no right accrued to the appellant to claim appointment solely on the ground that his name was included in the Waiting List. It is for the respondents to operate the Waiting List within a reasonable period of time. In view of the subsequent events, there was no occasion to the respondents to operate the Waiting List.

6. We are of the view that the learned Single Judge was justified in dismissing the Writ Petition. It is open to the appellant to take part in the next selection, in case he is otherwise eligible.

6. The intra court appeal is dismissed with the above observation. No costs. Consequently, connected MP is closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

nvsri

To

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

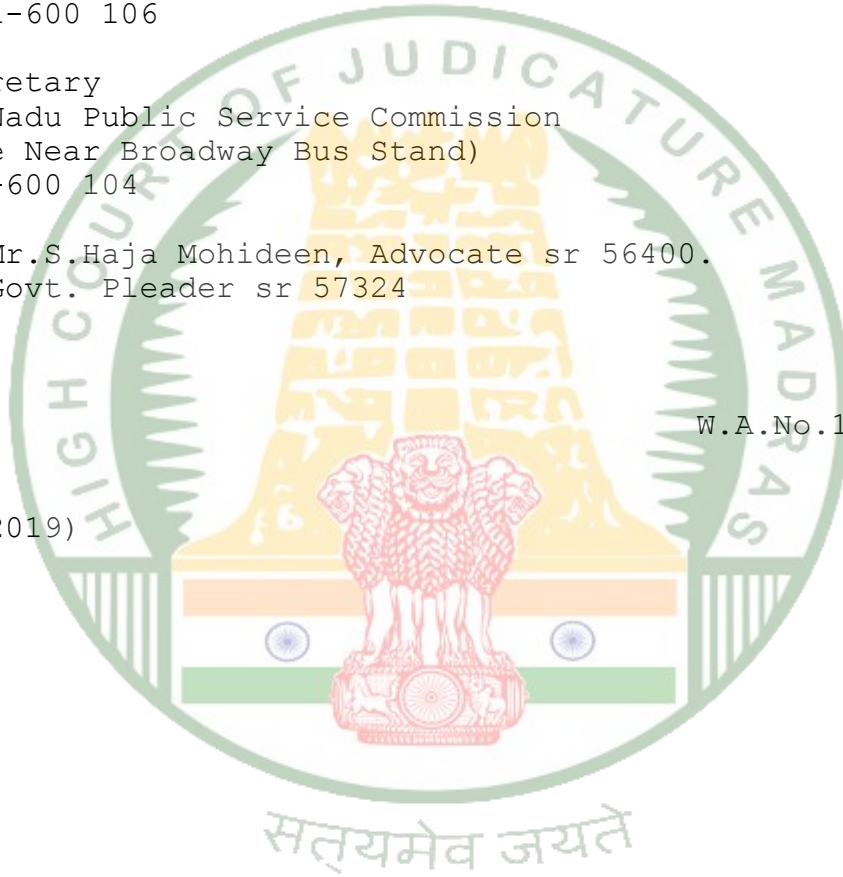
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+1 CC to Mr.S.Haja Mohideen, Advocate sr 56400.
+1 CC to Govt. Pleader sr 57324

W.A.No.1738 of 2019

VBA (CO)
SP(08/08/2019)



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