

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 04.07.2019****CORAM:****THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM****W.P.(MD)No.1676 of 2014**

WEB COPY

G.Helen Christibai

... Petitioner

-Vs-

1.The State of Tamil Nadu,
Represented by its Secretary,
Health & Family Welfare Department,
Secretariat, Chennai-600 009.

2.The Chairman,
The Tamil Nadu Public Service Commission,
Chennai.

3.V.Tamilalagan

4.S.K.Kasi

5.S.Ilango

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the Government Letter issued by the first respondent in his proceedings in Letter No.13757/M.II(1)2003-04 Health dated 15.12.2003 and quash the same as illegal insofar as it relates to rejecting the petitioner's representation and consequentially to direct the respondents to consider the petitioner for appointment to the post of Assistant Medical Officer (Siddha) taking into account of the marks scored by the petitioner in the written and oral examination within the period that may be stipulated by this Court.

For Petitioner	: Mr.C.Venkatesh Kumar, for M/s.Ajmal Associates.
For R1	: Mr.D.Muruganantham, Additional Government Pleader.
For R2	: Mr.K.K.Senthil
For R3 to R5	: No Appearance

ORDER

The order dated 15.12.2003 is sought to be quashed in the present Writ Petition.

2.The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner participated in the process of selection for appointment to the post of Assistant Medical Officer (Siddha), pursuant to the recruitment notification issued in Advertisement No.5/95 dated 22.02.1995.



3.The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner was successful in the written examination and participated in the further process of selection. The respondents have accommodated temporary appointees, who were appointed under Rule 10(a)(i) of the Tamil Nadu State and Subordinate Service Rules. Hence, the writ petitioner is constrained to move the present Writ Petition.

4.The relaxation for 10(a)(i) appointees if at all, cannot have implications with reference to the recruitment made independently. The relaxation for temporary employee is a policy decision taken by the Government and the same cannot be interfered with by the writ petitioner, so as to secure appointment for the post of Assistant Medical Officer (Siddha) with reference to the recruitment notification. The writ petitioner participated in the process of selection and in the event of any illegality, malpractice, corrupt activities in the process of selection, then alone, he can establish a cause for quashing the selection. Thus, comparing 10(a)(i) candidates may not have any relevance as far as the selection process made pursuant to the recruitment notification is concerned.

5.The learned counsel appearing on behalf of the second respondent contended that last candidate appointed in the post of Assistant Medical Officer (Siddha) secured 288.05 marks, which is the cut off mark fixed for selection and appointment. However, the writ petitioner has secured 281.50 marks. Thus, the writ petitioner was not within the zone of consideration and therefore, he was not selected.

6.In view of the fact that the writ petitioner was not within the zone of consideration, this Court cannot consider the relief as such sought for by the writ petitioner. Accordingly, this Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

To
The Secretary to Government,
Tamil Nadu,
Health & Family Welfare Department,
Secretariat, Chennai-600 009.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate SR-73619.

+1 CC to SPL GP SR-73688.

+1 CC to Mr.K.K.SENTHIL, Advocate SR-74031.

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CS: 12/07/2019 2P 5C