



W.A(MD)No.857 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 26.07.2024

CORAM

**JUSTICE N.SESHASAYEE
AND
JUSTICE P.VADAMALAI**

**W.A(MD)No.857 of 2021
and
C.M.P(MD)No.3807 of 2021**

Tamil Nadu Public Service Commission
Represented by its Secretary,
Frazer Bridge Road,
VOC Nagar, Park Town,
Chennai – 600 003.

.... Appellant/Respondent

Vs.

K.Ruckmani

... Respondent/Petitioner

Prayer:- Writ Appeal is filed under Clause 15 of Letter Patent, to set aside the order passed in W.P(MD)No.21367 of 2019, dated 05.11.2019 on the file of this Court.

For Appellant : Mr.V.Paneer Selvam
Standing Counsel for TNPSC

For Respondent : Mr.K.Mahendran
for Mr.T.Arun Jayatram



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J U D G M E N T

(Judgment of the Court was delivered by P.VADAMALAI, J.)

This Writ Appeal is preferred by the respondent in W.P(MD)No.21367 of 2019 challenging the order, dated 05.11.2019 passed by the learned Single Judge of this Court dismissing the Writ Petition.

2. The facts are minimal and they are stated as below:

(i) The respondent K.Rukmani has applied for the post of Assistant and Personal Clerk included in the Combined Civil Service Examination II (Group II-A) non-interview post for the year 2017-2018 upon notification issued by the appellant. At the time of application, she was working as sales woman in TN SPL 146 Boothalapuram Primary Agricultural Co-operative Credit Society as temporary employee. She attended the written examination held on 06.08.2017 and she was selected under the category of Priority Category Destitute Women. She submitted the ‘No Objection Certificate, dated 16.07.2018” issued by the said credit society as called for by the appellant. Thereafter, there was no reply. Hence, the respondent moved the Writ Petition in W.P.No.13744 of 2019 and as per the order passed therein, the appellant



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considered the representation of the respondent and issued Memo No.6014/PSD-D1/2018, dated 22.06.2019 stating that the respondent suppressed the fact that she was working as sales woman in Co-operative Society which is a government job. On seeking information by the appellant, the Deputy Registrar of Co-operative Society, Kovilpatti submitted a letter, dated 09.03.2019 stating that the petitioner worked as a temporary employment and it is not a government job. Without considering the letter, the appellant issued impugned order, memo No.6014/PSD-D1/2018, dated 24.08.2019, thereby, cancelled the selection and debarred the respondent for one year for writing the examination in the appellant commission. Therefore, the respondent filed the Writ Petition in W.P(MD)No.21367 of 2019 challenging the said order memo.

(ii) The learned Single Judge, after perusing the materials and hearing both sides, allowed the Writ Petition and set aside the impugned order of the appellant, dated 24.08.2019 and directed the appellant to select the petitioner and forward her name to the Government for an appointment within two weeks from the date of receipt of a copy of the order.



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3. The order of the learned Single Judge is now under challenge, at the instance of the respondents in the Writ Petition.

4. The learned Standing Counsel for the appellant/respondent submitted that the respondent/petitioner suppressed the fact that she was working in Tamil Nadu Co-operative Society as a government employee and that she, claiming to be a destitute widow, has to earn a monthly salary of more than Rs.4,000/- p.m. The above suppressions of the respondent/petitioner are a clear violation of instruction under 19(i)b(ii) and also attract Explanation 1 of Section 20(i) of the Tamil Nadu Government Servant (Conditions of Service) Act 2016. It is a settled principle that the instructions to the candidates and also the information brochure of the TNPSC and the terms and conditions of instructions to candidates and information brochure have the force of law and they have to be strictly complied with, in which, no modification can be made by the Court in exercise of power under Article 226 of the Constitution of India. The learned Single Judge has passed the impugned order contrary to the settled legal principal and therefore, the order of the learned Single Judge needs to be set aside.



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5. The learned counsel for the respondent/petitioner contended that the respondent/petitioner was not a government employee and she was working only as temporary servant as sales woman in the Co-operative society and the same was clearly mentioned by the Deputy Registrar of Co-operative Society, Kovilpatti in his letter, dated 09.03.2019. Hence, there is no suppression of fact as raised by the appellant/respondent/TNPSC. Moreover, the appellant/respondent has scrutinized the applications and then only allowed the respondent/petitioner to attend the examination, which clears that the respondent/petitioner has not made any suppression. The appellant/respondent now raised another provision of Section 20 (8) of the Tamil Nadu Government Servant (Conditions of Service) Act, which was not stated in their earlier show cause notice and it is an afterthought to give trouble to the respondent/petitioner. The learned Single Judge has analyzed all facts and circumstances and has correctly passed the impugned order under challenge in this Writ Appeal and therefore, the Writ Appeal may be dismissed.

6. We have heard the learned counsel appearing for the respective parties.



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7. It is admitted that the respondent/petitioner applied for Combined Civil Services examination - II (Non-Interview Posts) (Group II-A Services) through online on 13.05.2017 as per the appellant's Notification No.10/2017, dated 27.04.2017 and after participating the examination she was temporarily selected under destitute widow category as Assistant. It is the case of the appellant/TNPSC that at the time of application, the respondent/petitioner suppressed her employment as "sales woman" in TN Special 146 Boothalapuram Primary Agricultural Co-operative Credit Society, but, the respondent/petitioner while filling the application she stated that she was not a government employee. Particularly, she filled the questions and answers as follows: "Are you a Government Employee: No" and "Are you a destitute Widow: Yes". Thereafter, the appellant/respondent called for further particulars regarding the earlier employment of the respondent/petitioner. The appellant/respondent issued memo, dated 24.06.2019, wherein the 1st paragraph mentioned as follows:

“திருமதி.கே.ருக்மணி என்பவருக்கு தெரிவிப்பது
யாதெனில் தொகுதி-IIA -2017-2018-ம் ஆண்டிற்கான
உதவியாளர் பதவிக்கு விண்ணப்பிக்கும்போது அரசுப்
பணியில் பணிபுரிந்த விவரத்தினை மறைத்த
காரணத்தினால் தமிழ்நாடு அரசுப்பணியாளர்



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தேர்வாணைய விண்ணப்பதாரர்களுக்கான அறிவுரைகள்
பத்தி எண்.19(i)ஆ(ii)-ன் படி அன்னாரின்
விண்ணப்பத்தை ஏன் நிராகரிக்கக்கூடாது என்றும்
அன்னாரின் தற்காலிக தெரிவினை ஏன் இரத்து
செய்யக்கூடாது என்றும் மேலும் தேர்வாணையம்
நடத்தும் தேர்வுகள் மற்றும் தெரிவுகளில் கலந்து
கொள்வதிலிருந்து ஏன் விலக்கி வைக்க கூடாது
என்றும் விளக்கம் கேட்டு பார்வை 3-ல்
காணும் இவ்வலுவலக விளக்கம் கேட்டும் குறிப்பாணை
மூலமாக கேட்டுக்கொள்ளப்பட்டது.....”

The Deputy Registrar of Co-operative Societies, Kovilpatti, in his letter, dated 25.03.2021 has clearly stated that the employment of the respondent/petitioner is temporary employment and also in the fair price shop run by the TN Special 146 Boothalapuram Primary Agricultural Co-operative Society, the post of salesman is not a government job. Even after this letter, the appellant/respondent passed the order, dated 24.08.2019 cancelling the selection of the respondent/petitioner and also debarring her for one year from attending service examination.

8.Challenging the order, dated 24.08.2019 the respondent/petitioner preferred the Writ Petition, wherein the learned Single Judge analysed the



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brochure 19(i)b(ii) of the Notification and clearly observed that “As per the said Brochure, if a person suppresses his or her employment in Government, Local Bodies and Public Corporations etc., the said candidates will be disqualified and debarred....., the petitioner was neither working in a local body or Public Corporation and she was working only as a temporary sales woman in a Co-operative society. The Deputy Registrar of Co-operative Society, Kovilpati stated that the employment of the petitioner is only temporary and it is not a government job.....”. Considering the above, the learned Single Judge concluded that the petitioner’s service as sales woman in Co-operative society does not come under the Government, Local Body or Public Corporation and passed the impugned order and set aside the order, dated 24.08.2019 of the appellant/respondent directing the appellant to forward the name of the respondent/petitioner to the government for the appointment. The impugned order of the learned Single Judge is not contrary to law and legal aspects.

9. Now the learned Standing Counsel for the appellant raised another objection quoting Section 20(8) of the Tamil Nadu Government Servant



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(Conditions of Service) Act, 2016. As per its explanation, if a widow earns more than Rs.4,000/- in all sources she will not be treated as a destitute widow. But at the time of calling for clarification, for cancelling the selection of the respondent/petitioner, she has not been sought for clarification regarding her status as a destitute widow and only suppression of fact as government employee alone called for. In the appeal, the appellant/respondent has searched for another ground to cancel the selection of the respondent/petitioner. The appellant being an independent authority in the Selection Commission should be consistent in its process. It will not trace the grounds one after another for cancellation of the selected candidates. The learned Single Judge followed the order of the Division Bench of this Court in W.A.No.1280 of 2019, dated 10.04.2019, wherein it was held that the employee working in Reserve Bank of India is not government service and further held in paragraph Nos.30 and 31 as follows:-

“30. the fact remains that the relevant column in the application form contain only one service for disclosure viz., Government service, it would not be possible for a Bank employee to record that he is a Government employee. In case such a



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declaration of service status is given by a Bank employee indicating that he is a Government servant, he would face the disqualification/debarment in view of clause 19 of the instruction. Conclusion:-

31. The appellant very correctly indicated that he is not a Government employee. However, his candidature was rejected. The other local body employees and Bank employees who have recorded as if they belong to Government service were not subjected to any such disqualification. If we go by the tenor of the question, Are you a Government Employee, the Bank employees who are claiming that they are Government employees would suffer disqualification, as they have given a wrong statement. We therefore reject the contention taken by the TNPSC on the basis of clause 19 of the instructions.”

Therefore, the order of the learned Single Judge would not be against the appellants. Therefore, this Court is not inclined to accept the submissions as canvassed by the learned Standing Counsel for the appellant.



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10. In conclusion, this Court agrees with the line of reasoning of the learned Single Judge and confirms the order.

11. Accordingly, this Writ Appeal fails and the same stands dismissed. The order of the learned Single Judge, dated 05.11.2019 passed in W.P(MD)No.21367 of 2019 is confirmed. The appellant is directed to forward the name of the respondent/petitioner to the Government for taking further action to give her order of appointment within a period of six weeks from the date of receipt of copy of this judgment. No costs. Consequently, connected Miscellaneous Petition is closed.

(N.S.S.,J.) (P.V.M.,J.)
26.07.2024

NCC : Yes / No
Internet : Yes / No
Index : Yes / No

VSD

To

The Tamil Nadu Public Service Commission
represented by its Secretary,
Frazer Bridge Road,
VOC Nagar, Park Town,
Chennai – 600 003.



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