

In the High Court of Judicature at Madras

Dated: 4.6.2015

Coram:

THE HON'BLE MR.JUSTICE M.JAICHANDREN
AND
THE HON'BLE MR.JUSTICE T.MATHIVANAN

W.P. No.15691 of 2015
and
MP.Nos.1&2 fo 2015

R.Rani .. Petitioner

vs.

1.The Registrar General,
High Court, Madras.

2.The Secretary to Home Department.,
Govt. of Tamil Nadu,
Chennai.

3.The Tamil Nadu Public Service Commission,
rep. by its Secretary,
Chennai.

.. Respondents

Prayer: Writ Petition is filed to issue a writ of certiorarified mandamus calling for the records relating to the first respondent in R.O.C. No.94/2012-B3/ B2 dated 15.5.2015 and quash the same insofar as its proposes to hold an inquiry against the petitioner herein under Rules 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and consequently to drop all further proceedings initiated against the petitioner pursuant to the petition dated 10.2.2012 of one Thiru.K.Subramaniam, Erode.

For petitioner : Mr.K.M.Vijayan, Senior Counsel for
M/s.Swarnam J. Rajagoplan

For respondents: Mr.M.Baskar for R.1
Mr.R.Ravichandran, AGP - R2 & R3

ORDER

[by M.JAICHANDREN, J.]

Heard Mr.K.Vijayan, the learned Senior counsel appearing on behalf of the petitioner. Mr.M.Basha, the learned takes notice on behalf of the first respondent. Mr.R.Ravichandran, Additional Government Pleaders takes notice on behalf of the respondents 2 and 3.

2. This Writ Petition has been filed praying that this court may be pleased to issue a Writ of Mandamus to call for the records of the first respondent, relating to R.O.C.No.94/2012-B3/B2, dated 15.5.2015, and quash the same, in so far as it proposes to hold an enquiry against the petitioner herein, under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and consequently, drop all further proceedings initiated against the petitioner pursuant to the petition, dated 10.2.2012.

3. It has been stated that the petitioner had applied for the post of Civil Judge (Junior Division), pursuant to the advertisement issued by the third respondent, dated 10.5.2008. The petitioner had been selected for the post of Civil Judge, on 11.11.2008, based on the written and viva voce tests. She was given her appointment, vide R.OC No.9460/2007/B1, Office Memorandum, dated 3.3.2009, issued by the first respondent. After the certificate verification had been done by the third respondent, on 9.3.2009, the petitioner had been posted as Additional District Munsif, Tindivanam, on 11.3.2009. Since then she had been continuously serving as a Civil Judge (Junior Division), without any blemish. While so, a complaint had been preferred by one K.Subramanian, dated 10.2.2012, addressed to the first respondent, stating that the petitioner had not been eligible for joining the B.L.Course and for her subsequent employment, as she had not completed 10 +2 +Degree courses. It had been stated that she had done her studies, as per the old S.S.L.C course and had done her M.A. in History, directly, through an open University. It had also been stated that she had applied for the post of Civil Judge (Junior Division), as an orphan, by furnishing a false certificate. Certain other allegations had also been made in the complaint submitted by K.Subramanian.

4. The petitioner has stated that the complaint made against her has no basis, as she had not made any false representations while joining in service. The action taken against the petitioner, by the first respondent, by directing the petitioner to submit a written statement, with regard to her qualification, for being selected to the post of Junior Division (Civil Judge), is improper, and contrary to the relevant service rules. In such circumstances, the petitioner has preferred the present Writ Petition before this court, challenging the impugned proceedings, under Article 226 of the Constitution of India.

5. The learned Senior counsel, appearing on behalf of the petitioner, had submitted that the explanation submitted by the petitioner had been accepted and the charges had been dropped, except the charge relating to her educational qualifications. The proceedings issued by the first respondent directing the petitioner to submit a written statement to substantiate her claim that she had been fully qualified for being selected and appointed to the post of Civil Judge (Junior Division), is improper, as the petitioner had not committed any misconduct contemplated under Rule 17(b) of the Tamil

Nadu Civil Services (Discipline and Appeal) Rules. Therefore, the impugned proceedings issued by the first respondent is without jurisdiction.

6. The learned Senior counsel had further submitted that there is a likelihood of an adverse order being passed against the petitioner even if she submits her written statement, with regard to her educational qualifications. In such a case, the petitioner would be highly prejudiced, as she could be relieved from her judicial post. He had further submitted that the petitioner had to be continued in service, without going into the validity of her educational qualifications necessary for the post of Civil Judge (Junior Division), as the enquiries relating to her educational qualifications ought to have been made at the time of her selection process, during the year, 2008. Initiating the enquiry proceedings against the petitioner at a belated stage, based on a false complaint made by a third party, cannot be held to be valid in the eye of law. Therefore, this court may be pleased to set aside the impugned proceedings and direct the first respondent to drop all further proceedings against the petitioner.

7. In view of the submissions made by the learned counsel appearing on behalf of the petitioner and on a perusal of the records available, it is noted that certain doubts had arisen with regard to the educational qualifications of the petitioner, for being selected and appointed to the post of Civil Judge (Junior Division). It had been found, prima facie, that the petitioner was not qualified to be selected and appointed to the post of Civil Judge (Junior Division), as she had not done her 10 +2 +degree pattern, prior to the obtaining of her Master of Arts (M.A.) degree in History. It is also alleged that the petitioner had been selected and appointed, based on certain false claims made by the petitioner relating to her educational qualifications and based on the false certificate stating that she was an abandoned orphan. In such circumstances, we do not find that the contentions raised on behalf of the petitioner are meritorious in nature. As certain prima facie doubts had been raised, with regard to the educational qualifications of the petitioner, it is for her to prove that she had passed the necessary educational qualifications, for being selected and appointed to the post of Civil Judge (Junior Division), at the time of her initial appointment. The mere issuance of a show cause notice to the petitioner, by way of a memorandum calling for an explanation from the petitioner, with regard to her educational qualifications, for being selected and appointed to the post of Civil Judge (Junior Division), would not give her a cause of action for challenging the same. Even though she had submitted earlier explanation, the first respondent had issued the impugned memorandum directing the petitioner to submit her written statement, with regard to her educational qualifications. This Court, based on the records available, cannot hold that the first respondent does not have the power or the authority to direct the petitioner to file a written statement, with regard to her educational qualifications for

being selected and appointed to the post of Civil Judge (Junior Division). The petitioner cannot have any grievance for such a move made by the respondents. If the written statement, which is to be submitted by the petitioner, would substantiate her claims, with regard to her educational qualifications, such an explanation would, normally, be accepted by the respondents, to continue her in service. However, if the petitioner is not in a position to show that she was fully qualified for the post of Civil Judge (Junior Division), at the time of her selection, an adverse order may be passed against her, as per the rules applicable to the case.

8. The apprehension in the mind of the petitioner that an adverse order would be passed against her, based on her written statement is ill-founded, at this stage. Hence, the contentions raised on behalf of the petitioner are not acceptable. We are of the view that the petitioner has not shown sufficient cause or reason for granting the reliefs, as prayed for by the petitioner, in the present writ petition. It is for the petitioner to submit her written statement, pursuant to the impugned proceedings, to substantiate her claims relating to her educational qualifications, within a period of ten days from the date of receipt of a copy of this order. We make it clear that, on such written statement being submitted by the petitioner, the respondents would be duty bound to consider the same, on merits and in accordance with law and pass appropriate orders thereon, without being prejudiced by any other extraneous factors. In such circumstances, we find it appropriate to dismiss the writ petition, with the above observations. Hence the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Csh/g.s.

To

- 1.The Registrar General,
High Court, Madras.
- 2.The Secretary to Home Department.,
Govt. of Tamil Nadu, Chennai.
- 3.The Secretary Tamil Nadu Public Service Commission,
Commercial Tax Annexure Building,
No.1, Greens Road, Chennai-600 006.

+1cc to Mr.Swarnam, J. rajagopalan, Advocate, S.R.No.26783
+1cc to the Government Pleader SR.26886

UG(CO)
EU(11/06/2015)

W.P. No.15691 of 2015