

In the High Court of Judicature at Madras

Dated : 11.6.2015

Coram :

The Honourable Mr. Justice V. RAMASUBRAMANIAN
and
The Honourable Mr. Justice T. MATHIVANAN

Writ Petition No.28166 of 2014 and M.P.No.1 of 2014

P.T.Satheeskumar

...Petitioner

Vs

1.The Secretary, Tamil Nadu Public
Service Commission, Frazer Bridge
Road, Park Town, Chennai-3.

2.The Registrar - General, High Court,
Chennai-104.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Declaration to declare the first respondent's Notification made in No.15/2014 dated 26.8.2014 in so far as Clause-3(B)(iv) of the said Notification as ultra vires and null and void and also that of the consequential rejection dated 24.10.2014 and to consider the claim of the petitioner for the post of Civil Judge on merits.

For Petitioner : Mr.L.Chandrakumar
For Respondent-1: Ms.C.N.G.Niraimathi

ORDER OF THE COURT WAS MADE BY V. RAMASUBRAMANIAN, J

In response to the Notification issued on 26.8.2014 by the Tamilnadu Public Service Commission for the recruitment of 162 Civil Judges (Junior Division), the petitioner applied. The petitioner belongs to the Backward Class.

2. The admission of candidates to the process of selection, was under two categories namely (a) advocates practising in courts and (b) fresh law graduates. Different sets of qualifications are prescribed under the Tamil Nadu Judicial Service (Cadre and Recruitment) Rules 2007 for both these categories of persons. The criteria fixed under the rules, which also formed part of the Notification issued by the Tamil Nadu Public Service Commission, can be tabulated for easy appreciation as follows :

For Practising Advocates/ Pleaders and Assistant Public Prosecutors	i)	Must possess a degree in Law of a university in India established or incorporated by or under a Central Act or a State Act or an institution recognized by the University Grants Commission or any other equivalent qualification and got enrolled in the Bar Council of Tamil Nadu and in the case of candidates enrolled in the Bar Councils of other States they should submit a proof of transfer of their enrolment to the Bar Council of Tamil Nadu at the time of oral test and
	ii)	a) Must be practising as an Advocate or Pleader in the High Court or Courts Subordinate thereto and must have so practised for not less than 3 years on the date of this Notification viz. 26.8.2014 (or)
		b) Must be an Assistant Public Prosecutor having not less than 3 years of experience as an Advocate and/or Assistant Public Prosecutor
For Fresh Law Graduates	i)	Must be a fresh law graduate possessing a degree in Law from a recognized university as mentioned in Clause-I(i) above.
	ii)	Must be eligible to be enrolled as an advocate
	iii)	Must have secured in acquiring the bachelor's degree of Law an overall percentage of
	iv)	a) 45 marks in case of reserved categories (ie. SCs, SC(A)s, STs, MBCs/DCs, BCs (OBCMs and BCMs) b) 50% marks in case of general category (ie. others) Must have obtained the bachelor's degree of Law within a period of three years prior to the date of Notification

3. The petitioner admittedly had completed his law degree in June 2011 and enrolled in the Bar Council on 2.12.2011. In the on-line application that the petitioner submitted, he applied under the

category of Fresh Law Graduate. But unfortunately, he indicated the date of publication of the results of the law degree as 11.5.2011 instead of 5.11.2011. Consequently, the Tamil Nadu Public Service Commission did not treat his application as that of a fresh law graduate, on the basis that he had not obtained his law degree within a period of three years prior to the date of Notification. The application of the petitioner stood rejected. Therefore, the petitioner came up with the above writ petition. The prayer in the writ petition was to declare the prescription relating to the completion of law degree within three years as null and void.

4. At the time when the writ petition came up for admission, an interim order was passed by this Court directing the Public Service Commission to permit the petitioner to participate in the process of selection. The petitioner wrote all the four papers in the written examination and secured a total of 236 marks out of 400 in all the four papers. Consequently, he was also invited for viva voce, in which, he secured 45 out of 60 taking his total to 281. Thereafter, the writ petition came up for hearing.

5. We have heard Mr.L.Chandrakumar, learned counsel for the petitioner and Ms.C.N.G.Niraimathi, learned Standing Counsel for the first respondent.

6. At the outset, it should be pointed out that the petitioner has secured enough and more marks both in the written examination and in the viva voce to secure a place in the select list of candidates, if he was found to be eligible to apply. If he was found to be ineligible to apply, the marks secured by him would be of no help.

7. With this prelude, if we have a look at the facts as narrated by the Public Service Commission in their counter, it is clear that on actual facts, the petitioner is qualified to apply as a fresh law graduate. The date on which he completed the law degree, the date on which he got enrolled and the number of years of experience that he has undergone are all borne out by records, about which, there is no dispute.

8. The only impediment for the petitioner was a wrong entry made by him in the on-line application, indicating the date of publication of results of the law degree as 11.5.2011 instead of 5.11.2011. This wrongful interchange of the month and the date in the on-line application, has led to this disaster for the petitioner. It is clear from the above that there was a clerical and typographical mistake on the part of the petitioner in filling up the on-line application form. In many application forms, the column relating to months precede the column relating to dates. In certain application forms, the column relating to dates precede the column relating to months. What the petitioner has done is actually a small clerical and typographical mistake, as seen from the indication of the month as the date and the date as the month. Therefore, we are of the

considered view that the petitioner need not be penalised and that the mistake is capable of being rectified. Further, all the posts have not so far been filled up. The petitioner has secured sufficiently high marks to find a place, even according to the first respondent, in the select list. Therefore, the petitioner's name has already been included in the provisional list of selected candidates.

9. Accordingly, the writ petition is allowed, directing the respondents to consider the petitioner as having been qualified for applying for the post. The prayer relating to the challenge to the prescription contained in the Notification is rejected. No costs. Consequently, the above MP is closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

To

- 1.The Secretary, Tamil Nadu Public Service Commission, Chennai-3.
- 2.The Registrar - General, High Court, Madras.

1 cc to Mr.L.Chandrakumar , Advocate Sr.No.28396

RS

WP.No.28166 of 2014
and M.P.No.1 of 2014

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