

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :21.07.2015
CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.18408 of 2013
& M.P.No.1 of 2015

R.Suresh

...Petitioner

Vs

- 1.The Government of Tamil Nadu,
Represented by its District Collector,
Vizhupuram District.
- 2.Tamil Nadu Public Service Commission,
By its Secretary,
Chennai-2.
- 3.State level Scrutiny Committee,
By its Chairman,
Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Fort St. George, Chennai-600 009. ... Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of Writ of Mandamus to direct respondents 1 and 2 to refix the date of appointment of the petitioner on par with his juniors along with all service benefits and other benefits.

For Petitioner : Mrs.Dakshayani Reddy

For Respondents : Mr.R.Vijayakumar,
Addl. Government Pleader for R1 &R3

सत्यमेव जयते
Mr.M.Devendran for R2

O R D E R

By consent, the main writ petition itself is taken up for final disposal.

2. Heard Mrs.Dakshayani Reddy, learned counsel appearing for the petitioner, Mr.R.Vijayakumar, learned Additional Government Pleader appearing for respondents 1 and 3 and Mr.M.Devendran, learned counsel appearing for the second respondent.

3. The petitioner has filed this writ petition seeking to direct respondents 1 and 2 to refix the date of appointment of the petitioner on par with his juniors along with all service benefits.

4. The petitioner belongs to Schedule Tribe Community and registered his name in the Employment Exchange. In 2003, the petitioner was appointed as a Temporary Junior Assistant on contract basis in a supernumerary post. The Government took a policy decision to absorb the temporary Junior Assistant and the temporary Assistants, who are continuing on contract basis by conducting a Special Competitive Examination in Group IV Standard through the second respondent -Tamil Nadu Public Service Commission. The petitioner had also appeared for the said competitive examination held on 17.02.2008. However, the petitioner did not receive any intimation from the second respondent-Tamil Nadu Public Service Commission. The petitioner verified his result through on line which displayed "Results withheld". Thereafter, the petitioner was informed that the genuineness of the petitioner's Community Certificate is to be verified by the State Level Scrutiny Committee and hence, the result was withheld. However, the third respondent-State Level Scrutiny Committee sent a report only on 30.08.2010 and thereafter, the petitioner's result has been published. The petitioner's seniority was assigned by the second respondent-Commission as Sl.No.49 wherein it is also stated that all the monetary benefits and the service benefits shall commence only from the date of his joining.

5. The second respondent-Commission in their counter affidavit stated that without any delay, the community certificate of the petitioner was forwarded to the third respondent-Committee for verification and the State Level Scrutiny Committee sent a report only on 30.08.2010. Therefore, the Tamil Nadu Public Service Commission has nothing to do with the delay in appointing the petitioner.

6. The stand taken by the Tamil Nadu Public Service Commission is correct and justified. However, it has to be pointed out that the results of the petitioner, who participated in the Special Competitive Examination, was withheld for verification of his Community status. Once the Community Certificate is verified and the same is found to be genuine, the date of appointment of the petitioner has to be reckoned on par with his juniors. It necessarily follows that if the petitioner had been selected on the date when the Tamil Nadu Public Service Commission selected the other candidates, who are similarly placed, then the benefits of such appointment automatically flows to the petitioner. In this regard, the petitioner has submitted a representation on 01.02.2011 to the first respondent and the same is now pending.

7. In the light of the above observation and taking note of the stand taken by the third respondent-Committee certifying the

genuineness of the petitioner's Community Certificate, the first respondent is directed to consider the representation of the petitioner dated 01.02.2011 and pass orders within a period of eight weeks from the date of receipt of a copy of this order. The petitioner is directed to forward the copy of the representation along with the copy of this order to the first respondent.

8. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

- 1.The District Collector,
Government of Tamil Nadu,
Vizhupuram District.
- 2.The Secretary,
Tamil Nadu Public Service Commission,
Chennai-2.
- 3.The Chairman,
State level Scrutiny Committee,
Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Fort St. George, Chennai-600 009.

+1 cc to Mr.M.Devandran, Advocate sr.36953/15
+1 cc to M/S.Dakshayani Reddy Advocate sr.36837/15

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