

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE M.VENUGOPAL

W.A.No.1015 of 2015
M.P.No.1 of 2015

1. The Chairman,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
V.O.C. Nagar, Park Town,
Chennai 600 003.
 2. The Joint Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
V.O.C. Nagar, Park Town,
Chennai 600 003.
- ..Appellants/Respondents

versus

G.Elangovan ..Respondent/Petitioner

Prayer: Writ Appeal is filed under Clause 15 of the Letter Patent, against the order, made in W.P.No.4837 of 2015, dated 01.04.2015 petition preferred under Art.226 of the constitution of India to issue a writ of Certiorarified Mandamus calling for the records of the 2nd respondent in Memo No.5927/PSD-E1/2014 dated 17/2/2015 and quash the same and direct the Respondents to appoint the petitioner application No.470341130 to the post of Village Administrative Officer 2013-2014

For Petitioners : Mr.P.H.Aravind Pandian,
Addl. Advocate General
for Mr.M.Devendran

For respondent : Mr.G.Jeremiah

ORDER

(Order of the Court was made by S.MANIKUMAR, J.)

Being aggrieved by the order made in W.P.No.4837 of 2015,
dated 01.04.2015, directing Tamil Nadu Public Service

Commission, Chennai, to take follow up action, pursuant to the application submitted by the writ petitioner, treating it as a valid application and complete the selection process, within the time frame, the present appeal has been filed.

2. Facts as deduced from the pleadings and materials on record are that Tamil Nadu Public Service Commission has issued a Notification, dated 17.03.2014, calling for applications, for appointment to the post of Village Administrative Officer, by direct recruitment. The writ petitioner, an Ex-servicemen, applied under the Ex-servicemen quota. According to him, he has paid a total fee of Rs.186/-, through Harur Post Office on 28.03.2014 and submitted the application. Per contra, according to TNPSC, since he has not paid Rs.75/- towards examination fee separately, the Joint Secretary, Tamil Nadu Public Service Commission, Chennai, 2nd appellant, rejected his application, vide Memorandum No.5927/PSD-E1/2014, dated 17.02.2015. Challenging the said Memorandum, W.P.No.4837 of 2015, has been filed, for a writ of Certiorarified Mandamus, to quash the same and for a direction to the respondents therein, to appoint the writ petitioner to the post of Village Administrative Officer, 2013-14.

3. Before the writ Court, submission has been advanced that the writ petitioner has paid Rs.186/-, including the examination fee of Rs.75/-. Whereas, the Tamil Nadu Public Service Commission has contended that payment of examination fee of Rs.75/- was not made and upon realizing the mistake, the writ petitioner himself has submitted a letter of apology. For the abovesaid reasons, the impugned Memorandum therein, was sought to be justified. Having regard to the rival submissions, the Writ Court, at Paragraphs 5 to 7, ordered as follows:

"5. There is no dispute that the petitioner was expected to pay a sum of Rs.125/- towards examination fee. The counter affidavit filed by the Service Commission, more particularly, Paragraph No.3 very clearly shows that the petitioner has paid Rs.62/- three times, meaning thereby, he has paid a total sum of Rs.186/-. It is also not in dispute that the said payment was made along with the application. In fact, the Service Commission fairly conceded the said fact. Such being the factual position, it cannot be said that the petitioner has not paid Rs.125/- towards examination fee. In fact, the petitioner has paid excess fee, much more than the actual fee payable for writing the examination. I am therefore of the view that the Service Commission was not correct in rejecting the application submitted by the petitioner for want of required examination fee. 4 In view of the above finding, the impugned order dated 17.02.2015 is

set aside.

6. The petitioner has already appeared for the written examination. It was only during the process of certificate verification, the first respondent passed the impugned order. Therefore, I am of the view that further action should be taken by the respondents to consider the application submitted by the petitioner for appointment, taking into account, the results of the entrance examination.

7. The first respondent is directed to take follow up action, pursuant to the application submitted by the petitioner treating it as a valid application. The selection process should be completed as expeditiously as possible and in any case, within a period of four weeks from the date of receipt of a copy of this order."

4. Assailing the correctness of the said order, Mr.P.H.Aravind Pandian, learned Additional Advocate General, appearing for Tamil Nadu Public Service Commission, submitted that the writ Court has failed to appreciate that during certificate verification, the writ petitioner was enquired about the payment of examination fee and that he had given a apology letter, dated 10.02.2015, stating that he has paid Rs.50/- as Registration Fee and not paid the examination fee, for selection to the post of Village Administrative Officer, 2013-14. He further contended that only during certificate verification, the writ petitioner requested the Commission to accept his mistake in not making payment of examination fee.

5. Learned Additional Advocate General further submitted that the writ Court has failed to appreciate that the writ petitioner had claimed fee exemption for the said examination, in his online application and hence, the fee challan for Rs.50/- as application fee, alone would have been generated in the website. According to him, had he clicked the relevant column in the online application, without claiming exemption from payment of examination fee, then the requirement for payment of examination fee, would have been indicated and in that event, he would have made payment of Rs.75/- as examination fee.

6. Learned Additional Advocate General also contended that the Writ Court has failed to consider the fact that the candidate in his online application has mentioned that the number of free chances availed by him as '3', and as per Paragraph 12 of the Commission's instructions, to the candidates, Ex-servicemen are eligible to avail only two free

chances from payment of examination fee and therefore, he has wrongly claimed fee exemption under Ex-Serviceman quota. According to him, when the instructions to the candidates clearly state that for ex-servicemen category, the number of exemption from payment of examination is only two, the petitioner should have made payment of Rs.75/- as examination fee.

7. According to the learned Additional Advocate General, the writ petitioner appears to have paid Rs.50/- towards application fee, along with postal charges of Rs.12/-. Rs.62/- three times, totalling Rs. 186/- (Rs.62/- x 3) and it cannot be taken as payment of examination fee of Rs.75/-. He further submitted that the Writ Court ought to have appreciated the fact that when the writ petitioner has mentioned the number of exemption as three, he should have paid only the application fee of Rs.50/- with postal charges of Rs.12/-. On all three occasions, he has not paid the examination fee of Rs.75/-. For the abovesaid reasons, he prayed to set aside the order of the writ Court.

8. To sustain the order made in W.P.No.4837 of 2015, dated 01.04.2015, Mr.G.Jeremiah, learned counsel for the writ petitioner submitted that pursuant to the notification No.7 of 2014, issued by the appellants, inviting application for the post of Village Administrative Officer, the writ petitioner submitted his application on 28.03.2014. The last date for submission of application through online was 15.04.2014. The writ petitioner applied under the Ex-servicemen category and entitled to two free chances. As per the notification, examination fee of Rs.75/- and cost of application Rs.50/-, have to be paid.

9. Learned counsel for the writ petitioner further submitted that after payment of fee at Harur Post Office, the writ petitioner was assigned registration No.470341 130. The system generated three challans each, for payment of Rs.62/- and accordingly, payment was made on 28.03.2014 through the post office, to act as the collection agent of the appellants. He further submitted that as per instruction 'P', payment has to be made within two working days from the date of submission of application and that there is no requirement or instruction that payment should not made in lumpsum. He also submitted that as per instruction No.III, application can be rejected only, if there is suppression of number of attempts made, to avail fee exemption and according to him, there was no suppression.

10. Learned counsel for the writ petitioner further submitted that when the writ petitioner has categorically declared that it was his third attempt and hence, not entitled to fee exemption and therefore, once the appellants have

admitted the receipt of Rs.186/- in lumpsum, it is not open to them to contend that examination fee was not paid, as stated in the impugned Memorandum. In support of the payments of Rs.186/- on 28.03.2014, he has produced the post office receipts.

11. As the subject matter involves, submission of online applications and as to how, information is generated in the official website of the Tamil Nadu Public Service Commission, when a candidate fills up the required details against the respective columns/queries in the online application, including payment for, registration and separate examination fee, for selection to the post of Village Administrative Officer, 2013-14, learned Additional Advocate General, appearing for Tamil Nadu Public Service Commission, suggested that, in order to understand, as to how, the online application is submitted, a demonstration can be arranged, with aid of computer and its peripherals. Learned counsel for the writ petitioner also accepted the said suggestion. Accordingly, this Court arranged for such demonstration, in the Chambers of one of us.

12. During demonstration, learned counsel appearing for both parties were present. Officials of the Tamil Nadu Public Service Commission, dealing with registration of the applications, also explained the manner of registration, payment of application fee and examination fee. The two heads of payment are separate. The manner, in which, the writ petitioner had applied to the post, has been stagewise explained, in terms of the instructions.

13. As per the instructions, whenever candidates apply through online, they have to follow a procedure. The procedure for payment of Examination Fee is given under Clause 8 of the Instructions given in Notification No.07/2014, dated 17.03.2014, of the Tamil Nadu Public Service Commission and the same is extracted hereunder:

``Examination fee Rs.125/- (Examination Fee Rs.75/- + Cost of Application Rs.50/-) (Rupees One hundred and twenty five only)

*Candidates claiming exemption from examination fee should pay Rs.50/- towards Application Cost.(No exemption for cost of application)

* Candidates should also to pay the service charges applicable to the Bank or Post Office or Fee Processing Agency.

* Candidates can avail of the facility of one time Registration on payment of Rs.50/- towards Registration fee. The registration shall be valid for a period of Five Years from the date of one time registration.

* Offline mode of payment in the form of DD/Postal Order etc., will not be accepted and the applications forwarded with such modes of payment will be summarily rejected.

Those who have registered in the one time registration system and paid the registration fee of Rs.50/- and received the registration ID need not pay the application fee i.e. Rs.50/- and it is enough to pay the examination fee alone.

* Candidates who have made one time registration must apply for the notified posts. One time registration is only to avail exemption for application fee for a period of 5 years from the date of registration. (For further details regarding the Examination fee concessions refer para 12 of the 'Instructions to the candidates')."

14. Instructions have also been given to the candidates, as to how to apply through online, in the Commission's website under Clause 11 and the same is extracted hereunder:

"11. How to apply:

* Candidates should apply only through online in the Commission's Website www.tnpsc.gov.in or in www.tnpscexams.net.

* Before applying, the candidates should have scanned image of their photograph and signature in CD/DVD/Pen drive as per their convenience.

* A valid e-mail ID or Mobile Number is mandatory for registration and e-mail ID should be kept active till the declaration of results. You are cautioned to keep your e-mail ID and password confidentially. TNPSC will send Hall Tickets (Memorandum of Admission) for Written Examination and Other Memos etc. to the registered/given e-mail ID only.

* All the particulars mentioned in the online application including Name of the Candidate, Post Applied, Communal Category, Date of birth, Address, e-mail ID, Centre of Examination etc. will be considered as final and no modifications will be allowed after the last date specified for applying online. Since certain fields are firm and fixed and cannot be edited, candidates are requested to fill in the online application form with the utmost care and caution as no correspondence regarding change of details will be entertained.

* The candidates who wish to receive SMS should register their mobile number in the application.

11(A) Applying Online:-

1) Candidates are first required to log on to the

TNPSC's website www.tnpsc.gov.in or www.tnpscexams.net.

2) Click "Apply Online" to open up the On-Line Application Form.

3) Select the name of the post / service for which you wish to apply.

4) If you already have Unique ID, please enter the Unique ID and password to view the already available information and update them, if necessary.

5) If you do not have valid ID, please enter all the required particulars without skipping any field.

6) Candidates are required to upload their photograph and signature as per the specifications given in the Guidelines for Scanning and Upload of Photograph and Signature. An online application uploaded without the photograph and signature will be rejected.

11(B) Mode of Fee Payment:-

Select the mode of payment (Online Payment/Offline Payment).

11(C) Online Payment (Net Banking, Credit card/Debit card) :-

1) In case candidates who wish to pay fees through the online payment gateway, i.e. Net Banking, Credit Card and Debit card Payment, an additional page of the application form will be displayed wherein candidates may follow the instructions and fill in the requisite details to make payment.

2) After submitting your payment information in the online application form, please wait for the intimation from the server, DO NOT press back or Refresh button in order to avoid double charge.

3) If the online transaction has been successfully completed a Registration Number and Password will be generated. Candidates should note their Application Number and Password for future reference in respect of the post applied for.

11(D) Offline Payment (Post Office or Indian Bank) :-

1) For offline mode of payment candidates have to select either Post Office or Indian Bank Branch.

2) Click "SUBMIT" to submit the Application form.

3) Candidates will be provided with Application Number and password. Please note down the Application Number and password.

4) On Submission, system will generate the payment Chalan which the candidates need to take print out and go to the nearest branch of Indian bank or the Designated Post Offices as the case may be, to make the payment.

5) Collect the candidate's copy of the fee

payment Chalan from the Branch. Please check that the Chalan is properly signed and the details of Transaction Number, Branch Name, DP Code Number and Deposit Date have been noted in the Chalan by the Branch authorities.

6) Online Application Registration will be taken as successful one, only if the payment is made either in the post office or in the Indian Bank within two working days from the date of registration/submission of application."

15. Similar instructions are given to the candidates by the Tamil Nadu Public Service Commission, when the application forms are submitted.

16. Relevant columns, in the on-line application of the writ petitioner, submitted to the Tamil Nadu Public Service Commission, are as follows:

Online Application	Particulars
Registration No.	470341130
Notification No.	07/2014
Full Name	G.Elangovan
Name of the post applying for	Village Administrative Officer
Are you an Ex-Service Man	Yes
PPO No.	D/41/2007
Date of Discharge	07/03/2004
Application Fee/Intimation Charges Details	
Payment mode	Post Office
Amount	Rs.50/-
Do you claim for Age Concession	Yes
Under What Category	Ex-Serviceman
Do you claim fee exemption	Yes
Under What Category	Ex-Serviceman
No of the Attempts	3

17. In the case on hand, the post applied is Village Administrative Officer. The total fee is Rs.125/- (Rupees One hundred and twenty five only) [Examination Fee Rs.75/- + Application fee Rs.50/-]. Candidates claiming exemption from payment of examination fee, should pay Rs.50/- towards Application Cost. There is no exemption for application fee. Candidates should also to pay the service charges applicable to

the Bank (Rs.5/-) or in the case of Post Office (Rs.12/-) for offline payment mode. Candidates can avail of the facility of one time Registration on payment of Rs.50/- towards Registration fee. The registration shall be valid for a period of Five Years from the date of one time registration. From the details entered in the online application, the candidate appears to have availed two exemptions from payment of examination fee, on the grounds that he is an ex-serviceman.

18. As per the instructions, offline mode of payment in the form of DD/Postal Order etc., will not be accepted and the applications forwarded with such modes of payment, will be summarily rejected and the fee will not ordinarily be refunded. From the reading of the instructions to the candidates, it could be deduced that those who have registered in the onetime registration system, and paid the registration fee of Rs.50/-, and received the registration ID, need not once again register. However, the candidates who have made their one time registration, can apply, for the notified posts. One time registration is only to avail exemption, from payment of registration fee, for a period of 5 years, from the date of registration.

19. Going through the demonstration of the Commission, we could notice that if the candidates applying with one time ID and claim fee concession and click "Yes" in the online application, under any of the above mentioned category, no fee will be generated. If the candidates applying without one time ID and claim fee concession and click "Yes" in the online application, under any of above mentioned category, application fee alone will be generated, i.e., Rs.50/- + service charges applicable. If the candidates applying with one time ID and claim fee concession and click "No" in the online application, examination fee will be generated, i.e., Rs.75/- + service charges, if applicable. If the candidates applying without one time ID and claim fee concession and click "No", in the online application, then application fee with Examination fee, will be generated for those candidates, i.e., Rs.125/- (Rs.50/- + Rs.75/-) + service charges, if applicable.

20. But in the case of the writ petitioner, Thiru.G.Elangovan (Application No.470341130), the fee challan appears to have been generated for Rs.62/-, towards application fee alone, on the basis of the following particulars furnished in the online application.

One time Registration	: No
Communal category	: Backward
class	
Special category	: Ex-serviceman
Qualification	: HSC

Fee concession claim : Yes
Fee concession claim under category: Ex-Serviceman
Number of time availed : 3 times
Mode of payment : Post Office

21. The writ petitioner had selected "YES" under the heading "Do you claim Fee Exemption". The information generated in the online application required confirmation under what category he claimed fee exemption. The candidate had chosen "Ex-Serviceman". As the candidate had applied, without one time Registration, he had been prompted to pay the application fee of Rs.50/- + service charge Rs.12/- in the Post Office. Fee challan has been generated accordingly.

22. Insofar as the concerned post office is concerned, payment has been received in "Offline Mode". As per the offline system in practice, it is stated that the application number of the candidate will be entered by the Postal Department and data base generated would disclose the register number of the candidate. Until the database is updated, the fee paid status will be as "N" (No). Once the database is updated, the fee paid Status will become "Y" (Yes). Thus, it could be deduced that it is not matter, in the offline mode, how many times the candidate has paid the Fee. In the case on hand, the candidate has paid the application fee, three times. For all the three times, his record has been updated as "Y" (Yes), against the status of payment.

23. From the demonstration and materials on record, it could be deduced that the writ petitioner was well aware of the fact that he had wrongly claimed fee exemption under Ex-Serviceman Category. It is also clear that the writ petitioner has mentioned the number of exemption as three. Therefore, it is contended by the Commission that his application is liable to be rejected, as per paragraph No.1 of the undertaking given by the candidate. However, he has been permitted to undergo the selection process.

24. In the online application, information is generated only, when the candidate specifically indicates payment, required to be made as examination fee. In the case on hand, the writ petitioner, ex-serviceman, has claimed exemption from payment of examination fee.

25. Yet another aspect taken note of during demonstration is to how, payment of examination fee, has been made by another candidate, Ms.D.Rama, who has also applied for the post of Village Administrative Officer, vide notification No.07/2014. The details of the online application for the Tamil Nadu Public Service Commission registration, is reproduced hereunder:

Online Application	Particulars
Registration No.	470078595
Notification No.	07/2014
Full Name	D.Rama
Name of the post applying for	Village Administrative Officer
Are you an Ex-Service Man	No
PPO No.	--
Date of Discharge	--
Application Fee/Intimation Charges Details	
Payment mode	Post Office
Amount	Rs.125/-
Do you claim for Age Concession	No
Do you claim fee exemption	No

26. On comparison of the particulars of the petitioner, with the illustrative case of Ms.D.Rama, it could be deduced that the said candidate, D.Rama, has indicated, as to how, payment has been made. Against the column, "One Time ID", it is stated as "Nil". As against Column, "Application Fee/Intimation Charges", the amount is mentioned as Rs.125/- and the payment mode is through Post Office. Apparently, from the reading of the petitioner's application of the Tamil Nadu Public Service Commission, enclosed at Page 63 of the typed set of papers, against the Column "Application Fee/Intimation Charges", payment has been made through a Post Office and the amount mentioned is Rs.50/- only. The writ petitioner has paid the application fee. Payment of Rs.12/- has been made for postal charges. But there is no separate examination fee.

27. If the candidate had already availed the permissible exemption to pay the examination fee, then he has to pay the examination fee. But he has claimed exemption. The fact that he has claimed fee exemption itself, is a proof that he has not paid the examination fee. In the case on hand, the total fee is Rs.125/-, which includes examination fee of Rs.75/- plus the cost of application of Rs.50/-.

28. Though Mr.Jeremiah, learned counsel for the writ petitioner made submissions to sustain the order of the writ Court, contending that once the Tamil Nadu Public Service Commission has accepted the receipt of Rs.186/-, as lumpsum payment, the same should be construed, as payment towards examination fee of Rs.75/- also, the same cannot be accepted. As demonstrated by the Tamil Nadu Public Service Commission, submission of online application is done, step by step, which includes payment of examination fee. A candidate who has already applied for any post, notified by the Commission, is not entitled to avail payment of examination fee, for more than the permissible limit, in the case on hand, '2'. He has availed the said concession and therefore, ought to have been paid examination fee.

29. Added further, during certificate verification, the fact that the writ petitioner himself has submitted a apology letter, dated 10.02.2015, indicating that he had not paid the examination fee separately, adds support to the case of the Tamil Nadu Public Service Commission. The letter, dated 10.02.2015, submitted by the petitioner to the Commission, is reproduced hereunder:

“நான் இன்று 10.02.2015 அன்று ஏறூருக்கு பணிக்கு சான்றிதழ் சரிபார்ப்பிற்கு வந்தபோது ஆன்லைனில் விண்ணப்பிக்கும் போது ரூ.50 (டிநே வசூலுந் சநப) கட்டணமாக செலுத்தியுள்ளேன் என்பதனை தெரிவித்துக் கொள்கிறேன். தோர்வக் கட்டணம் செலுத்தாததற்கு வருத்தம் தெரிவித்துக் கொள்கிறேன். தவரை மன்னித்து என்னுடைய விண்ணப்பத் தினை ஏற்றுக் கொள்ளுமாறு பணிவடன் கேட்டுக்கொள்கிறேன். மேலும் தோர்வாணையம் எடுக்கும் முடிவிற்கு கட்டுப்படுகிறேன்.”

30. Though the arguments of the learned counsel for the writ petitioner, may at first blush, may appear to be reasonable, on the ground that a lumpsum payment of Rs.186/- has been made, through Harur Post Office, after careful consideration of the demonstration made by the Tamil Nadu Public Service Commission, about the manner, in which, a candidate is required to furnish the information in the online application, as and when generated, indicating payment of examination fee and exemption, if any, eligible and availed, as per the instructions to the candidates, we are of the view that the writ petitioner has not paid the examination fee. The same is candidly admitted by the writ petitioner, in his apology letter, dated 10.02.2015, given to the Commission. When the writ petitioner himself has admitted that non-payment of examination fee, it is not open to him to retract and assail the procedure, followed by the Tamil Nadu Public Service Commission and the impugned Memorandum, dated 17.02.2015, of the Joint Secretary, Tamil Nadu Public Service Commission, Chennai, 2nd appellant, rejecting his candidature.

31. Needless to state that when the Commission invites online applications, there would be innumerable applications and informations are generated through internet and the programme is designed in such a way, when a candidate clicks a column for any specific information, the answer is also generated, as to what should be is his next course of action. Depending upon the same, the candidate is required to answer, with reference to the instructions applicable to the posts notified.

32. Merely because, a candidate was allowed to take part in the selection process, it would not confer any right to him, to seek for appointment. As rightly contended by the learned Additional Advocate General, if for any reason, either during certificate verification or even after the entire process is over, if the selection of the candidate, is found to be not in accordance with the eligibility criteria or the procedure, the mistake in the selection can be rectified and accordingly, suitable orders can be issued. In the case on hand, during verification, it was found that the writ petitioner has not paid the examination fee, which he has also admitted.

33. Going through the materials on record and after careful consideration of the process involved in registration and submission of the online applications, we are of the view that the explanation offered by the Tamil Nadu Public Service Commission, through demonstration, is acceptable and in the absence of payment of separate examination fee, the application submitted by the writ petitioner cannot be said to be, in accordance with the procedure.

34. Thus, we find no irregularity in the Memorandum No.5927/PSD-E1/2014, dated 17.02.2015, of the Joint Secretary, Tamil Nadu Public Service Commission, Chennai, 2nd appellant, impugned in W.P.No.4837 of 2015. For the reasons stated in the grounds and in the light of the above discussion, we are of the view that the impugned order made in W.P.No.4837 of 2015, dated 01.04.2015, is liable to be set aside. Accordingly, it is set aside.

35. Before parting with the case, we are of the view that the programme devised by the Commission, requires improvisation.

36. In the result, the Writ Appeal is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1. The Chairman,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
V.O.C. Nagar, Park Town,
Chennai 600 003.
2. The Joint Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
V.O.C. Nagar, Park Town,
Chennai 600 003.

+1cc to Mr.M.Devendran, Advocate, S.R.No.701
+1cc to Mr.C.Jeremiah, Advocate Sr.No.1324

W.A.No.1015 of 2015

tej (CO)
srg (03/02/2016)

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