

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.12.2016

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THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.996 of 2013
and M.P.Nos.1 & 2 of 2013

T.Thirumurugan .. Petitioner

Vs

- 1.The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
V.O.C. Nagar, Park Town,
Madras-600 003.
- 2.The Director,
Tamil Nadu Forensic Science Department,
No.30-A, Kamaarajar Salai,
Mylapore, Madras-600 004. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus, calling for the records of the first respondent herein in his proceedings No.Nil dated 05.09.2012 withholding the result of the petitioner with Register No.00101100 and quash the same and further direct the respondents herein to appoint the petitioner to the single post of Technical Assistant (Air-Conditioning) in the office of the second respondent herein based on the results of the first respondent herein published on 05.09.2012.

For Petitioner : Mr.S.Kasirajan

For Respondent-1 : Mr.M.Loganathan
TNPSC

For Respondent-2 : Mr.K.J.Sivakumar,
GA

O R D E R

The present Writ Petition has been filed challenging the proceedings issued by the first respondent dated 05.09.2012, withholding the result of the petitioner with Register No.001011000 and quash the same and further direct the respondents herein to appoint the petitioner to the post of Technical Assistant (Air-Conditioning) in the office of the

second respondent herein.

2. Learned counsel for the petitioner would submit that the act of the first respondent herein withholding the result of the petitioner is contrary to law and against the Principles of Natural Justice.

3. It is the case of the petitioner that the petitioner has completed Diploma Course in Refrigeration and Air-Conditioning with First Class Honours during April 2001, under the State Board of Technical Education and Training, Department of Technical Education, Madras. Subsequently, the petitioner has completed B.E. [Mechanical Engineering] under Anna University, Madras. The first respondent before passing the impugned order, invited application for the post of Technical Assistant [Air Conditioning] so as to appoint in the second respondent's office. The prescribed qualification for the said post is Diploma in Mechanical Engineering or equivalent qualification on the date of Notification i.e., on 02.04.2012, with not less than two years experience in the maintenance of Air Conditioning and Cold Storage Plant in a reputed firm or Government institution. On the basis of the Notification, the petitioner has submitted his application and he succeeded in both written examination and oral test. Result of the oral test was published on 05.09.2012, in which, the petitioner's result was withheld for non-production of certain documents. According to the petitioner, the action of the first respondent withholding the result of the petitioner is arbitrary, since the petitioner has not received any communication from the first respondent directing him to produce certain documents. Therefore, the present Writ Petition has been filed challenging the impugned proceedings of the first respondent.

4. Learned counsel for the first respondent would submit that the first respondent has invited applications vide Notification No.07/2012, dated 02.04.2012, for the post of Technical Assistant [Air Conditioning] in Tamil Nadu Forensic Science Subordinate Service. The number of vacancies announced for the recruitment was one only. Out of 140 candidates, who were admitted for the written examination held on 16.06.2012, only 65 candidates appeared for the written examination.

5. Learned counsel for the first respondent would further submit that the petitioner having acquired the qualification, had applied for direct recruitment to the post of Technical Assistant [Air Conditioning] mentioning his qualification details as 'other equivalent qualification' in the application for the said recruitment. Paragraph No.9 of the Commission's instructions to candidates, reads as follows:

"9. EQUIVALENT QUALIFICATIONS:

The degree is awarded by any University/Institution recognized by the University

Grants Commission for the purpose of its grant that qualification will be generally accepted. Candidates who apply for a particular post should possess the prescribed qualification for the post or such other qualification which have been declared to be higher than or equivalent to the said qualification by the State Government in consultation with the Equivalence Committee constituted under the Chairmanship of the Chairman, Tamil Nadu Public Service Commission for the purpose. "If a candidate claims that the educational qualification possessed by him/her is equivalent to though not the same as those prescribed for the appointment, the onus of proof rests with the candidates. In such case, a letter evidencing equivalence of qualification should be obtained from the University which awarded the degree to the candidates. It must be signed by the concerned course Head/Head of the Department of the respective course Head/Head of the Department of the respective course as well as by the Registrar. It may be given separately also i.e., one from course Head/Head of the concerned Department and one from Registrar of the respective University. However, the same would be subject to the decision of the Equivalence Committee constituted as per G.O.Ms.No.441, Personnel and Administrative Reforms (R) Department, dated 20.12.1993 and the decision of the Government. The evidence for the proof of equivalence of qualification and the original of the same should be produced when called for by Tamil Nadu Public Service Commission for certificate verification preceding the counselling/Oral Test otherwise, the application will be summarily rejected. "The candidates must keep the aforesaid equivalence certificate (from the University and College ready immediately after sending the application)."

6. The petitioner has declared in the application that he fulfills all the eligibility conditions prescribed for admission to the examination. Therefore, he was permitted to attend the oral test held on 14.08.2012, subject to acceptance of his educational qualification as equivalent to the qualification notified for the post of Technical Assistant [Air Conditioning]. But, the said equivalent certificate was not produced by the petitioner. Hence, the impugned proceedings withholding the appointment order was passed.

7. It is also brought to the notice of this Court by the learned counsel appearing for the first respondent that the Government has issued G.O.Ms.No.441 Personnel & Administrative Reforms [PER.R] Department dated 20.12.1993, wherein, the Government has constituted a Committee for

recognition of Educational qualification for purposes of employment in Government be forwarded to the Secretary, Tamil Nadu Public Service Commission for being placed before the Committee.

8. It is further submitted that the Government has issued G.O.Ms.No.178 Higher Education [B1] Department dated 14.10.2014, wherein, in paragraph No.2, it is stated as follows:

"2. The Government after careful consideration have decided to accept the recommendation of the 36th Equivalence Committee held on 15.11.2012 and direct that the Diploma in Refrigeration & Air-Conditioning awarded by SBTET is not equivalent to the Diploma in Mechanical Engineering awarded by the Department of Technical Education of the Government of Tamil Nadu with Refrigeration and Air Conditioning as an elective subject."

9. In view of the above said Government Order, the first respondent has cancelled the provisional selection of the petitioner for the post of Technical Assistant [Air Conditioning] in the second respondent Department. Therefore, there is no case made out to interfere with the orders passed by the first respondent and the Writ Petition deserves to be dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

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To

- 1.The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
V.O.C. Nagar, Park Town,
Madras-600 003.
- 2.The Director,
Tamil Nadu Forensic Science Department,
No.30-A, Kamaarajar Salai,
Mylapore,
Madras-600 004.

+1cc to M/s.S.Kasirajan, Advocate sr.74280

+1cc to M/s.M.Loganathan, Advocate sr.74366

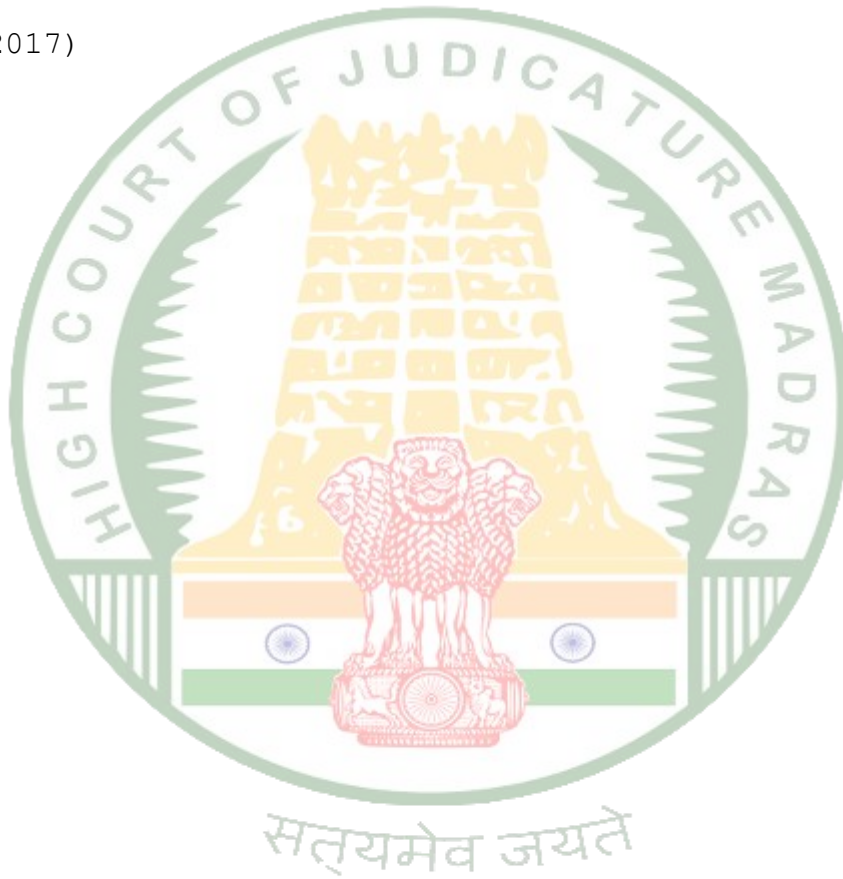
+1cc to The Government Pleader sr.74806

WP.No.996 of 2013

and

M.P.Nos.1 & 2 of 2013

gmi (co)
ss (20/01/2017)



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