

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2016

CORAM

THE HON'BLE MR.JUSTICE B.RAJENDRAN

W.P.No.3559 of 2016
and
W.M.P.Nos.2922 and 2923 of 2016

Y.J.Binu Shalin

.. Petitioner

Versus

1. The Government of Tamilnadu,
Rep. by its Secretary,
Municipal Administration and Water
Supplies Department,
Fort St. George,
Chennai - 600 009.

2. The Principal Secretary/Commissioner,
Corporation of Chennai,
Ripon Building,
Chennai - 600 003

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for entire records relating to the rejection of petitioner's application dated 28.12.2015 by the second respondent's order through their official website on 22.01.2016 and quash his order of rejection and direct the second respondent to conduct the Written Examination afresh for the petitioner and consider the petitioner for the post of Assistant Engineer (Electrical) as notified in Second Respondent's Notification No.001 dated 13.12.2015.

For Petitioner : M/s.S.D.S.Phillip

For Respondents : Mr.G.Anantharangan

ORDER

The present writ petition has been filed by the petitioner seeking for the issuance of writ of certiorarified mandamus, to call for the entire records of the second respondent relating to the order of rejection of his application dated 22.01.2016 and to quash the same and consequently direct the second respondent

to conduct written examination afresh for the petitioner and consider him for appointment to the post of Assistant Engineer.

2. The case of the petitioner is that he has completed Diploma Course in Computer Engineering during 2008 and he has also completed Bachelor of Engineering (Computer Science and Engineering) degree during 2011. While so, the second respondent issued Notification No.001, dated 13.12.2015 inviting applications for Direct Recruitment to the post of Assistant Engineer (Mechanical), Assistant Engineer (Civil), Assistant Engineer (Electrical) and Sanitary Inspector (HD). Since the petitioner fulfils all the qualification required for appointment to the post of Assistant Engineer(Electrical), he applied for the said post on 28.12.2015 by duly signing the application. Along with the application, he has also enclosed self attested photocopies of all educational certificates and community certificate together with a Demand Draft for Rs.500/- towards Examination Fees as per the Notification. According to the petitioner, the written examination was scheduled on 23.01.2016. As per the selection process, the Hall Ticket has to be obtained through the Website of the second respondent. When the petitioner attempted to get the Hall Ticket through the Website of the second respondent by entering his application number, he received a response indicating 'No Data' and on his repeated attempt to get the hall ticket generated, on 22.01.2016, the website indicated that the application of the petitioner had been rejected for the reason "Application not signed". Thereafter, the petitioner contacted the second respondent and complained that he had filled all particulars and duly signed the application and showed the photocopy of the same to the second respondent. It is the case of the petitioner that the second respondent informed him that nothing could be done as they had sealed all the applications received from the candidates and consequently he could not be permitted to write the Written Examination to be conducted on 23.01.2016. The officials also admitted that only on 22.01.2016, the rejection was shown in their official website.

3. According to the petitioner, the respondents did not give an opportunity to him to point out the mistake on the part of the second respondent. The first respondent also failed to give proper guidelines to the second respondent for following the procedure and for redressal of aggrieved candidates. Thus, both the respondents failed to perform their duties as per law.

4. The learned counsel appearing for the petitioner submitted that the petitioner had filled up all particulars and duly signed the application. But, the second respondent rejected the application of the petitioner on the ground that the application is not signed and the same was hosted on the website only on 22.01.2016. When the petitioner approached the second

respondent to complain about the rejection of his application, by showing the photocopy of his application duly signed by him, the second respondent did not give an opportunity to the petitioner to rectify the same in spite of showing the photocopy of the application. More over, the petitioner was made to run from pillar to post and then he was informed by the second respondent that nothing could be done as they sealed all the applications. The learned counsel for the petitioner further submitted that if the second respondent has given an opportunity to the petitioner to rectify the application, he would have succeeded in the examination and appointed to the post. The non-consideration of the same by the respondents would amount to violation of the fundamental right guaranteed under Article 14 of the Constitution of India. Therefore, he prayed for a direction to the second respondent to conduct Written Examination afresh for the petitioner and consider him for selection and appointment to the post of Assistant Engineer (Electrical).

5. The learned counsel for the respondents opposed this writ petition, by way of filing a counter. Relying upon the counter, the learned counsel for the respondents submitted that the Application form contain five pages. But, the petitioner's application contains 4 pages only, which was received through Courier Post on 29.12.2015 along with the self attested photocopies of the educational certificates and community certificate together with a demand draft for Rs.500/- towards examination Fees. However, the 4th page of the application was not found in the courier post cover. Therefore, the petitioner's application was rejected by the second respondent for the reason "Application not signed". Moreover, 1070 applications were also rejected by the second respondent on various grounds, such as, "application not signed", "Certificate not enclosed", "Application not enclosed", "DD not valid", "Education qualification does not match", "Photo not affixed", "Double application received" etc., Such reasons for rejection were also uploaded in the Corporation Website on 21.01.2016. In the meantime, the corporation hosted the list of eligible candidates on 18.01.2016. The learned counsel for the respondents further submitted that the second respondent is the appointing authority to fill up the posts in the category of Assistant Engineers as per G.O.Ms.No.181, Municipal Administration and Water Supply dated 06.10.2009 and he has followed the procedure as per law. The necessary instructions issued in the notification have not been adhered by the petitioner and he applied to the post of Assistant Engineer without enclosing the 4th page of the application, where the applicant has to sign in the relevant column. As the application did not contain the 4th page, the petitioner's application was rejected. Therefore, there is no violation of the fundamental

right guaranteed under the Constitution of India of Right to Equality under Article 14 as alleged by the petitioner.

6. Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondents and perused the original application of the petitioner. On a careful perusal of the original application filed before this Court, it is seen that the application was not stitched properly and it is stapled. As per the original records produced into the Court, out of 5 pages, page Nos. 1, 2, 3 and 5 of the application are available and the 4th page was not available. Though it is the stand of the petitioner that he sent the application dully filled up and signed the application, unfortunately, the application was not properly stitched, which has been submitted to the respondents. The petitioner should have been diligent in sending the application to the second respondent, after stitching it properly. Further, the second respondent has stated that totally 14000 applications have been received and after manual processing, 1070 applications have been rejected, including the application of the petitioner, on various grounds such as, "application not signed", "Certificate not enclosed", "Application not enclosed", "DD not valid", "Education qualification does not match", "Photo not affixed", "Double application received". Further, the second respondent has also explained the reason for rejection of the application stating that the petitioner has not signed the application. Moreover, as per clause No.15(b) of the Notification dated 13.12.2015, if Date & Signature is not appended in the application form in the prescribed place, the application will be rejected. According to the respondents, since the 4th page was not available in the application sent by the petitioner, the second respondent has rejected the petitioner's application. Therefore, this Court is of the view that the second respondent is justified in rejecting the application of the petitioner. Further, the examination itself was over on 23.01.2016 itself. Unfortunately, the petitioner came to this Court only on 25.01.2016, i.e. after the examination date. If the petitioner had come earlier, this Court could have allowed him to write the examination. Now, the petitioner lost his opportunity for his own mistake of not signing the application properly. In such view of the matter, I do not find any merits in the present writ petition. Accordingly this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

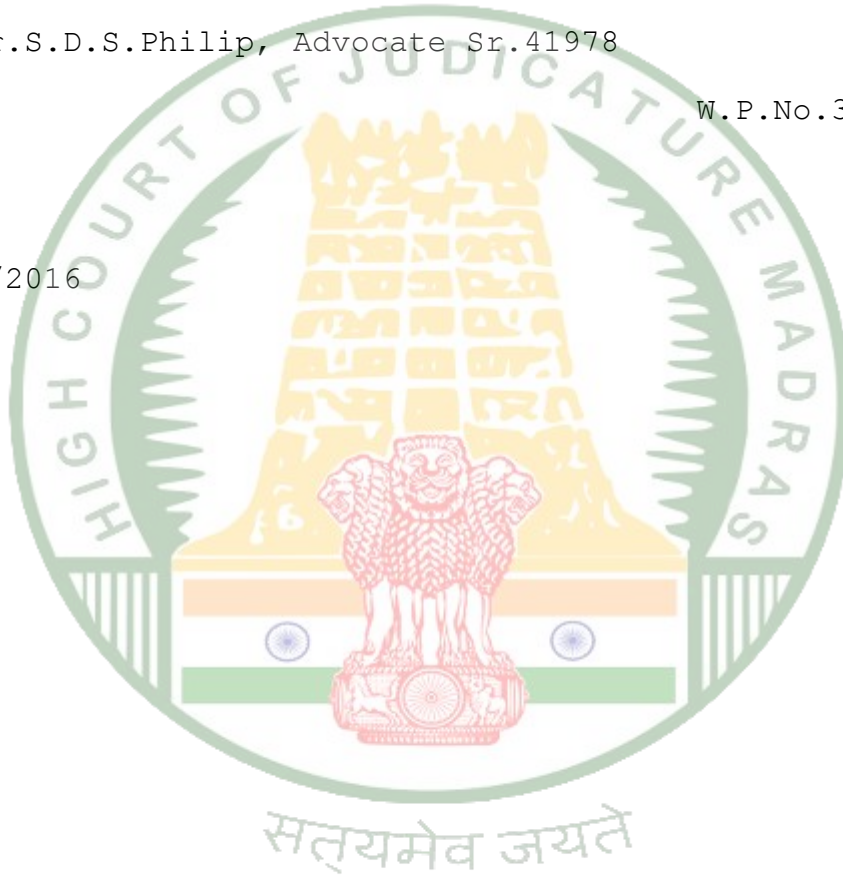
To

1. The Secretary,
Municipal Administration and Water
Supplies Department,
Fort St. George, Chennai - 600 009.
2. The Principal Secretary/Commissioner,
Corporation of Chennai,
Ripon Building, Chennai - 600 003.

+lcc to Mr.S.D.S.Philip, Advocate Sr.41978

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srg 04/10/2016



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