

In the High Court of Judicature at Madras

Dated : 04.11.2016

Coram

The Honourable Mr.Justice R.SUBBIAH

W.P.No.38278 of 2016

and

W.M.P.Nos.32823 & 32824 of 2016

R.Jagadha

.... Petitioner

..vs..

Tamil Nadu Public Service Commission,
rep., by its Secretary,
Chennai.

... Respondent

Writ Petition has been filed under Article 226 of Constitution of India, praying for issuance of a writ of certiorarified mandamus, to call for the records which culminated in issuing the impugned order of rejection dated Nil. November, 2016, published in the website of the respondent/Commission corresponding to User ID No.11559065 and password DPM838BR issued to the petitioner and to quash the same and consequently, to direct the respondent to accept the prescribed fee and to permit the petitioner to write the Group-IV examination on 06.11.2016 by issuing hall ticket and also declare her results thereof.

For Petitioner : Mr.P.Ganesan

For Respondents : Dr.M.Devendran,
Standing Counsel for TNPSC

ORDER

This writ petition has been filed by the petitioner praying for issuance of a writ of certiorarified mandamus, to call for the records which culminated in issuing the impugned order of rejection dated Nil. November, 2016, published in the website of the respondent/Commission, corresponding to User ID No.11559065 and password DPM838BR issued to the petitioner and to quash the same and consequently, to direct the respondent to accept the prescribed fee and to permit the petitioner to write the Group-IV examination on 06.11.2016 by issuing hall ticket.

2.The brief facts of the case of the petitioner are as follows_

2-1.By a Notification dated 09.08.2016, the respondent invited applications for written examination for direct recruitment for various posts in Group-IV service, bearing Notification No.15/2016 in Advertisement No.445/2016. As per the terms and conditions of the said Notification, the application has been to be submitted through on-line. For the fourth time, the petitioner submitted her application for writing Group-IV examinations, through on-line on 29.08.2016. In her application, the petitioner had filled up all the requisite columns and she also indicated the examination centre at Kariamangalam in Dharmapuri District. The petitioner belongs to Backward Community. As per the said Notification, for the first three time, exemption is given in respect of payment of examination fee. The petitioner had already participated three time in the TNPSC examinations, but she did not succeed. Now the petitioner has applied for the fourth time and as per the said Notification, the petitioner has to pay the examination fee. However, due to inadvertence, the petitioner did not pay the prescribed examination fee while submitting her application. However, her application was entertained and she was assigned with User ID No.11559065 and password DPM838BR. The user ID and password are provided to enable a candidate to generate hall ticket as and when it is published through on-line by the respondent.

2-2.It is further stated by the petitioner that on 29.08.2016, she submitted her application through on-line, without making the requisite fee. However, she realized her mistake and immediately on the next day, on 31.08.2016, she sent an e-mail to the respondent-Commission and requested to permit her to pay the examination fee as she is not entitled for exemption from payment of fee for the fourth time. The petitioner was under the legitimate expectation that she will be given hall-ticket by the respondent. It is further stated by the petitioner that the Group-IV examinations are scheduled to be held on 06.11.2016. The petitioner had come to know that similarly placed persons, who have submitted their applications through on-line, have generated their Hall Tickets through the website of the respondent-Commission. When the petitioner attempted to generate her hall ticket, an alert was posted on the website corresponding to her User ID and Password, which reads as follows_

"Your application has been rejected. As you have already availed and exhausted the admissible number of examination fee concessions, in the previous recruitments, you are not eligible to avail fee concession."

Thus, the application of the petitioner was rejected. Aggrieved over the same, the petitioner has come forward with the present writ petition.

3. When the matter is taken up for consideration, the learned counsel appearing for the petitioner made a detailed argument by adverting to the averments made in the affidavit, specifically stating that the petitioner's application was entertained through on-line and he was also assigned with User ID and Password; hence, the petitioner is entitled to attend the forthcoming examination. Thus, the learned counsel for the petitioner sought for a suitable direction to the respondent.

4. Per contra, the learned Standing Counsel for the respondent-Commission, by filing a detailed counter, would contend that nearly 15,79,731 candidates have applied to Group-IV Services Recruitment Examination to be held on 06.11.2016. Instructions are common to all candidates and have been equally implemented to everyone. In the application form itself, the instructions/terms & conditions for applying to appear for the examination have been clearly mentioned. Instructions have also been given in the application form itself with regard to payment of examination fee. The petitioner belongs to Backward Class community. As per the instructions/conditions, fee concession is given to the candidates who belong to Backward Class community, for three times. The petitioner has already availed the fee concession for three times. Hence, as the forth time, the petitioner is liable to pay the fee for writing the forthcoming examination. Despite repeated instructions, check points and alert messages, the petitioner has chosen 'Yes' against Fee Concession column in the application form, by suppressing the fact that she had already availed three free chances. Hence, the petitioner's application along with other similar applications of the candidates, were rejected for having claimed fee concession by suppressing the fact that they have already availed admissible number of fee exemption.

5. The learned Standing Counsel for the respondent-Commission would further submit that the written examination for the recruitment for the posts included in Group-IV services is scheduled to be held in all the Districts of Tamil Nadu, at 301 Taluk Centers on 06.11.2016. The attendance sheets, number statements, OMR Answer Sheets and other confidential examination materials were already dispatched to the centers with the details of the admitted candidates. Now, at this juncture, permitting a candidate without paying prescribed fee to the written examination for the recruitment to the posts included in Group-IV services, is against the principle of equality. Thus, the learned Standing Counsel for the respondent-Commissioner sought for dismissal of the writ petition.

6. Heard the submissions made on either side and perused the materials available on record.

7. I find that the issue involved in this writ petition is squarely covered by the judgment delivered by a Division Bench of this Court in W.A.No.1015 of 2015, dated 06.01.2015, in the case of The Chairman, TNPSC and another vs. G.Elangovan, wherein in paragraphs 32 & 33 it has been observed as follows_

"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 been 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 petition cannot be said to be in accordance with the procedure."

8. Similarly, another Division Bench of this Court in a batch of writ petitions in W.P.No.32718 of 2005 etc, (Dr.M.Vennila Vs. TNPS), by order dated 12.06.2006, has held as follows_

"25. In the earlier part of our order, we have extracted relevant provision, viz., Instructions, etc., to Candidates as well as the Information Brochure of the Tamil Nadu Public Service Commission, we hold that the terms and conditions of Instructions, etc to Candidates and Information Brochure have the force of law and have to be strictly complied with. We are also of the view that no modification/relaxation can be made by the Court in exercise of powers under

Article 226 of the Constitution of India and application filed in violation of the Instructions, etc., to Candidates and the terms of the Information Brochure is liable to be rejected. We are also of the view that strict adherence to the terms and conditions is paramount consideration and the same cannot be relaxed unless such power is specifically provided to a named authority by the use of clear language. As said at the beginning of our order, since similar violations are happening in the cases relating to admission of students to various courses, we have dealt with the issue exhaustively. We make it clear that the above principles are applicable not only to applications calling for employment, but also to the cases relating to the admission of students to various courses. We are constrained to make this observation to prevent avoidable prejudice to other applicants at large."

9. The dictum laid down in the above judgment is squarely applicable to the present facts of the case also. When the application submitted by the petitioner is not in accordance with the procedure/instructions/conditions prescribed in the application form, this Court cannot give any direction to the respondent to permit the petitioner to writ the examination. Further more, since initially the petitioner's application was entertained by the respondent, it does not give any right to the petitioner to ask permission to writ the examination, when admittedly her application is not in accordance with the procedures/instructions. Further, not only the petitioner's application is alone rejected, but also the applications of the other candidates, who did not pay the prescribed fee, were also rejected by the respondent. Further, the written examination for the recruitment for the posts included in Group-IV services is scheduled to be held in all the Districts of Tamil Nadu at 301 Taluk Centers on 06.11.2016. It is submitted by the learned Standing Counsel for the respondent that the attendance sheets, number statements, OMR Answer Sheets and other confidential examination materials were already dispatched to the centers with the details of the admitted candidates. Now, at this eleventh hour, this Court cannot give any direction to the respondent, by entertaining the prayer sought for by the petitioner. Hence, I am not inclined to entertain the present writ petition.

Accordingly, the writ petition is dismissed. Consequently,
connected Miscellaneous Petitions are closed. No costs.

-s/d-
Assistant Registrar

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Sub-Assistant Registrar

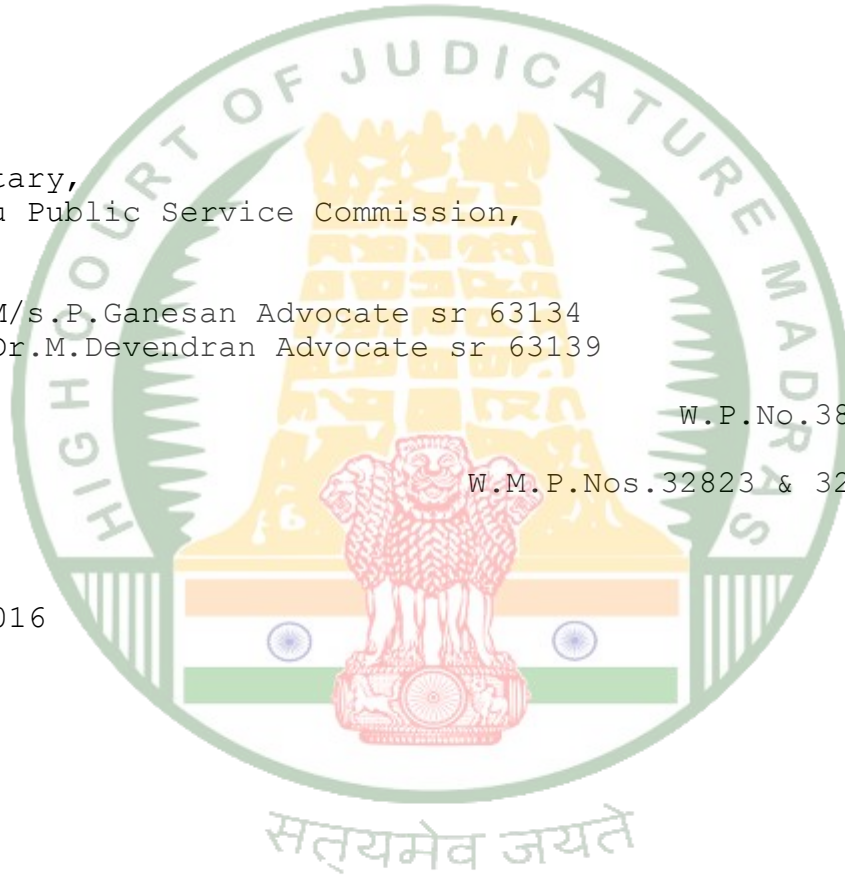
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To
The Secretary,
Tamil Nadu Public Service Commission,
Chennai.

+1 cc to M/s.P.Ganesan Advocate sr 63134
+1 cc to Dr.M.Devendran Advocate sr 63139

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