

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.12.2016

Coram:

Hon'ble Mr.Justice NOOTY. RAMAMOHANA RAO
and
The Hon'ble Mr.Justice S.M.SUBRAMANIAM

Writ Petition No.42040 of 2016
and

W.M.P.No.35970 of 2016

C.Bhavani

.. Appellant

Versus

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

Respondent

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of a Writ of Mandamus directing the Respondent to consider the petitioner for selection to the post of Computer Operator, in pursuant to the Notification No.10/2016 dated 20.07.2016 issued by the Respondent, based on the BCA Qualification acquired by the petitioner and consequently select the petitioner to the post of Computer Operator based on merits in the selection.

For Petitioner .. Mr.G.Sankaran

For Respondent .. Mrs.C.N.G.Niraimathi

ORDER

(MADE BY NOOTY.RAMAMOHANA RAO, J)

This writ petition is instituted seeking a writ of mandamus by directing the Tamil Nadu Public Service Commission, to consider the candidature of the petitioner for selection to the post of Computer Operator, pursuant to the Notification No.10/2016 dated 20.07.2016, issued by the Respondent, based upon the BCA qualification acquired by the petitioner and also for a consequential direction to select the petitioner to the post of Computer Operator, based on her merit.

2. It is the claim of the writ petitioner that she belongs to Backward Class Community and that she has obtained Bachelor of Computer Science (BCA) degree from the Madras University and had passed the said examination in the year 2009. She has also passed B.L. Degree examination conducted by the Tamil Nadu Dr.Ambedkar University in May 2013. She also possessed technical qualification of typewriting in both Tamil and English by Higher Grade.

3. The Respondent Tamil Nadu Public Service Commission issued Notification No.10/2016 dated 20.07.2016, inviting applications for appointment to various categories of posts, one of them being Computer Operator. The writ petitioner appeared for the written examination on 28.08.2016. The results of which were published on 02.10.2016, which reflected that the writ petitioner has secured 274 marks. But however, in the Remarks Column it was noted that she was not eligible for the post of Computer Operator. Hence, the present writ petition is instituted.

4. The Tamil Nadu Public Service Commission has filed its counter affidavit. It is pointed out in the counter affidavit that the writ petitioner has not claimed to possess the BCA qualification in the online application form submitted by her, against the column relating to Educational Qualification/Degree. Since there was no claim made with regard to possessing the qualifications of Decree/Diploma in Computer Science, which is prerequisite qualification for appointment to the post of Computer Operator, the writ petitioner was declared as ineligible.

5. Learned counsel for the writ petitioner has placed reliance upon the judgment rendered by the Supreme Court in Dolly Chhanda vs. Chairman, Jee and others (2005) 9 SCC 779, wherein it has been held as under:-

"7. The general rule is that while applying for any course of study or a post, a person must possess the eligibility qualification on the last date fixed for such purpose either in the admission brochure or in application form, as the case may be, unless there is an express provision to the contrary. There can be no relaxation in this regard i.e. in the matter of holding the requisite eligibility qualification by the date fixed. This has to be established by producing the necessary certificates, degrees or mark-sheets. Similarly, in order to avail of the benefit of reservation or weightage, etc. necessary certificates have to be produced. These are documents in the nature of proof of holding of particular qualification or percentage of marks

secured or entitlement to benefit of reservation. Depending upon the facts of a case, there can be some relaxation in the matter of submission of proof and it will not be proper to apply any rigid principle as it pertains in the domain of procedure. Every infraction of the rule relating to submission of proof need not necessarily result in rejection of candidature."

He has also placed reliance upon the judgment of the Division Bench of the Andhra Pradesh High Court in *Union of India v. Guduru Raja Surya Praveen* (2015 SCC OnLine HYD 437).

6. While it is true that every candidate who makes any claim for consideration for appointment to any post, must necessarily satisfy the eligibility requirement by making available the necessary proof in that regard. The actual production of the proof perhaps can be treated as procedural. In the instant case, since the writ petitioner has possessed Bachelor Degree of Law, she has furnished the said particulars in the Online Application Form against the column of Educational Qualification-Degree. But however, by sheer inadvertence, she has not claimed BCA qualification in the Online Application Form against the column of Educational Qualification-Degree. Perhaps that was because she obtained BL degree after obtaining BCA degree, as BL degree can be obtained only after obtaining another Graduation Degree. But however, the fact remains that she has enclosed a copy of the BCA Degree certificate issued by the Madras University, in proof of her passing the said examination. Therefore, the present case can be treated as one of a non-substantive error committed by the writ petitioner. Hence, she can be treated to have claimed to possess BCA qualification as well, since the necessary certificate of having passed the said course has been enclosed to her application.

7. However, the learned Standing Counsel has pointed out that the last candidate who has been selected and allotted to the post of Computer Operator through counselling process in BC category (Women), secured 280 marks which is more than the 274 marks, which the writ petitioner has secured and consequently the writ petitioner did not suffer any substantial prejudice or injustice by non consideration of her case for the post of Computer Operator. This contention deserves acceptance.

8. When once the last candidate who has been selected for the post of Computer Operator has secured 280 marks in comparison to the 274 marks secured by the writ petitioner, no injustice can be said to have been caused in the process of selection so far as the writ petitioner is concerned. However, as and when any supplementary merit list is to be drawn, for purposes of resultant unoccupied vacancies, the case of the writ petitioner may be considered in case any other BC category candidate with

equal number of marks or less number of marks is going to be picked up for any such empaneling.

9. With this observation, the writ petition is dismissed. No costs. Consequently, W.M.P.No.35970 of 2016 is closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

gr.

To

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

2 ccs to Mr.G. Sankaran, Advocate, Sr. 74514, 74041

W.P.No.42040 of 2016

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