

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 15.03.2017
CORAM:
THE HON'BLE MR.JUSTICE NOOTY.RAMAMOHANA RAO
AND
THE HON'BLE MR. JUSTICE S.M.SUBRAMANIAM
W.P.No.11600/2015 &
M.P.Nos. 1, 2 & 3 of 2015

R.Ramalingam

... Petitioner

Vs

- 1.The Chairman,
Tamil Nadu Public Service Commission,
Frazer Bride Road,
V.O.C. Nagar,
Chennai - 600 003.
- 2.The Secretary
Tamil Nadu Public Service Commission,
Frazer Bride Road,
V.O.C. Nagar,
Chennai - 600 003.
- 3.The Deputy Secretary
Tamil Nadu Public Service Commission,
Frazer Bride Road,
V.O.C. Nagar,
Chennai - 600 003.

... Respondents

PRAYER:

Writ Petition filed under 226 of the Constitution of India for issuance of a writ of Certiorari-Fied-Mandamus to call for the records relevant to the order in Memo.5148/OTD-C4/2013 dated 15.04.2015 passed by the 3rd respondent and quash the same as illegal, improper, arbitrary and against the natural justice and thereby direct the respondents to call for the oral test in respect of the post of Civil Judge in the Tamil Nadu State Judicial Service, 2013 - 2014 and to appoint the petitioner in the post of Civil Judge in the Tamil Nadu State Judicial Service for the year 2013 - 2014.

For Petitioner : Mr.L.Chandrakumar
for Mr.A.Rajesh Kanna
For Respondents: Mr.C.N.G.Niraimathi
Standing Counsel

O R D E R

NOOTY.RAMAMOHANA RAO, J.,

This Writ Petition is instituted, calling in question the correctness of the Memo dated 15.04.2015, passed by the Tamil Nadu Public Service Commission, rejecting the Application of the Writ Petitioner for recruitment to the post of Civil Judge (Junior Division) in Tamil Nadu State Judicial Service as he has not acquired the required educational qualification as prescribed in Paragraph No.3 (B) under note (i) of the Notification dated 26th August, 2014.

2.One of the most unfortunate cases that, we have to deal with is the present one.

3.The writ petitioner hailing from a remote rural area and hailing from Scheduled Tribe Community, passed 10th standard examination in April 1994. Subsequently, he pursued the three year Diploma Course of Mechanical Engineering and completed the said course in April 1999, in First Class. He subsequently got admitted to the Post Graduate Course of M.A. (Public Administration) in Annamalai University through Distance Education mode and completed the said Post Graduate Course in May 2005. He thereafter sought for admission in the three year B.L., degree course at the Central Law College, Salem, and pursued the said course between 2007 and 2010. He successfully completed the course by November 2010. He got enrolled as an Advocate on the rolls of Bar Council of Tamil Nadu and Puducherry in April 2011, and, thereafter started practicing law in the District Courts.

4.The Tamil Nadu Public Service Commission has notified 162 Posts of Civil Judges (Junior Division) in Tamil Nadu State Judicial Service by the method of direct recruitment through its Notification No.15 dated 26.08.2014. Column 3 dealt with the qualifications to be possessed by the prospective candidate as of 1st July 2014. While Part-A there of prescribes the age limit for various categories of candidates, Part-B dealt with the educational qualifications to be possessed as of 26th August 2014. Note (i) appended there to reads as under:-

"the qualification prescribed for the post should have been obtained by passing the required qualification in the order of studies SSLC / 10th + HSC (or its equivalent) + Under Graduate Degree".

5. There is no dispute with regard to the qualifications possessed by the writ petitioner. However, Shri.L.Chandra Kumar, learned counsel for the writ petitioner would submit that the writ petitioner after having passed 10th standard has also successfully completed the three year diploma course and when a similar question has fallen for consideration of the State Government as to whether a pass in three year Diploma Course in any one branch of the Engineering or the other is an equivalent qualification for recruitment to Government Services, the State Government has constituted a Joint Fixation of Educational Qualification Committee and the said Committee at its 37th meeting held on 03.12.2012, made certain resolutions. The Tamil Nadu Public Service Commission thereafter requested the State Government to consider accepting the resolutions of the aforementioned Committee and for publication of the resolutions in the form of a Government Order. Accordingly, the State Government passed Orders in G.O Ms. No.242 Higher Education (B1) Department, dated 18.12.2012, accepting the resolutions passed by the Committee. The subject of matter of Resolution No.2 reads as under:

"persons who have completed the 10th standard (SSLC) and completed three year diploma and later completed the Graduation through the Open University (Distance Education) and Colleges (10+3+3), are considered to be equivalent to the persons who have obtained Graduation qualifications."

This resolution of the Committee has been accepted by the Government in Paragraph No.3 for the said aforementioned order.

6. Therefore, Shri.L.Chandrakumar, learned counsel would contend that the case of the writ petition herein shall be treated as to have possessed the necessary educational qualifications and by mistake, the Public Service Commission has not carried out the Orders passed by the State Government, in the aforementioned Government Order in G.O. Ms. No.242 (Higher Education) B1 Department, dated 18.12.2012 while taking out the Notification No.15 dated 26.08.2014.

7. On the above basis, it was strenuously urged before us that the decision contained in the impugned Memo dated 15th April 2015, is an erroneous one, being the result of non-application mind to the relevant factors.

8. Ms. C.N.G. Niraimathi, learned Standing Counsel for Tamil Nadu Public Service Commission would urge before us that the Tamil Nadu Public Service Commission would notify the recruitment process upon receipt of requisitions from respective Departments/Units. The requirements of the qualifications and/or experience to be possessed by the prospective candidates is what has been notified by the Requisitioning Unit concerned. The Public Service Commission independently does not prescribe any qualifications or experience requirements on its own. Keeping in view the requirements as furnished by the Requisitioning Department or Unit, the Notifications would emerge. The Public Service Commission is conscious, according to the learned Standing Counsel about the resolution passed by the Joint Fixation of Educational Qualification Committee and also the fact that the request made by the Public Service Commission itself for accepting the resolution passed by the said Committee at their 37th Meeting has been accepted by the State Government. But, the learned counsel would urge before us that the writ petitioner did not have the benefit of an 'Under Graduate Degree', to render him eligible for recruitment to the post of Civil Judge (Junior Division).

9. We have considered the rival submissions.

10. It is true that Note No.1 appended to paragraph No.3 of the Notification dated 26th August, 2014, has clearly brought out that the candidates are required to have passed/possessed SSLC/10th Class + HSC or its equivalent + Under Graduate degree. Apart from that, one must also possess a Degree in Law of any University in India or an Institution recognised by the University Grants Commission. In the instant case, the writ petitioner did pass 10th standard, he also possessed the B.L. Degree, but, he has not possessed a pass of HSC or its equivalent and he did not possess the Under Graduate Degree. Instead, he passed the three year Diploma Course in Mechanical Engineering and thereafter he possessed the Post Graduate Degree Course in M.A.(Public Administration) of two years duration. In other words, the total academic span of the writ petitioner is to be reckoned as 10+3+2+3, whereas, the requirements notified reads as 10+2+3+3. In the instant case, even though the writ petitioner's three year Diploma Course in Mechanical Engineering can be construed as equivalent to pass of HSC, which is only of two years duration, however, what he did not possess was the basic Under Graduate Degree, even though he is possessing B.L. Degree.

11. B.L. Degree is a professional qualification and it cannot be construed as a basic Under Graduate Degree Course. That qualification is an essential qualification for recruitment to the post of Civil Judges (Junior Division). The writ

petitioner possess two years Post Graduate Degree of M.A.(Public Administration). It no doubt stands superior to that of an Under Graduate Course. But, nonetheless, it is not the same as that of possessing a basic Under Graduate Degree. Unfortunately, the writ petitioner perhaps is missing his eventual selection to become a Judicial Officer, if we may observe, by the narrowest of margins.

12.We feel really distressed in not being in a position to come to the rescue of the writ petitioner, all the more so, when we learnt that he hails from the poorest of the social segments of scheduled tribe community from a remote rural area where there are no basic facilities even for an organised living of civil society. The quantum of our pain is increased by a further knowledge that the writ petitioner was trekking miles together day in and day out to reach to his School and other educational institutions, where he pursued all those courses. By sheer dint of hard work and merit, the writ petitioner perhaps earned the distinction to be a practising Lawyer. But, unfortunately for him, Law does not respect the sentiments at all time.

13.The legal principle which we consider as coming in our way to come to the rescue of the writ petitioner's cause is that no requirement of the 'Recruitment Rule' can either be relaxed or waived. The requirement of the recruitment rule here insists of possessing the basic under graduate degree, apart from possessing the professional degree of B.L./L.L.B. and enrollment as an Advocate.

14.When a similar question arose in SYED KHALID AND ORS v. UNION OF INDIA AND ORS [1993 Supp (3) SCC 575], in paragraph No.31 of the Judgment, the Hon'ble Supreme Court has laid down the following principle:

" 31.....The eligibility for recruitment to the Indian Police Service, thus, is a condition of recruitment and not a condition of service. Accordingly we hold that seniority, though, normally an incidence of service, Seniority Rules, Recruitment Rules and Promotion Regulations form part of the conditions of recruitment to the Indian Police Service by promotion, which should be strictly complied with before becoming eligible for consideration for promotion are not relaxable."

The above principle draws a distinction between the eligibility and essential requirements for recruitment from other conditions of service and declares that the eligibility criteria for recruitment are non-negotiable. They have to be strictly complied with and cannot be waived/relaxed.

15. In view of this legal principle, we cannot waive or ignore the requirement of the candidates to possess basic Under Graduate Degree qualification, apart from possessing the professional degree of B.L., and enrollment as an Advocate on the Rolls of one Bar Council or other in the Country. We are therefore of the opinion that the impugned order passed by the Tamil Nadu Public Service Commission does not warrant or call for interference at our hands.

16. Paradoxical, as it may seem, the writ petitioner is a practising Lawyer. But, yet, he did not possess the necessary eligibility qualification to be recruited as a Junior Civil Judge. That was because of the requirement of possessing a specific qualification. We hope and trust that he will not consider our Judgment in any other manner except to draw inspiration from the adage that "every failure is a potential stepping stone for future success" and he will go on pursuing his profession with renewed vigor and dedication. We also hope and trust that he would make a mark for himself and earn a distinction at the Bar for the sheer superior quality of services rendered by him.

17. Hailing from such a humble beginning, we are sure, he will have a greater successes in life waiting for him to be unlocked at the right moment. With this, we are constrained to dismiss the Writ Petition, but, without cost. Consequently, connected Miscellaneous Petitions are closed.

-s/d-

Assistant Registrar(CSIII)

True Copy

Sub-Assistant Registrar

TO

1. The Chairman,

Tamil Nadu Public Service Commission,
Frazer Bride Road,
V.O.C. Nagar,
Chennai - 600 003.

2. The Secretary

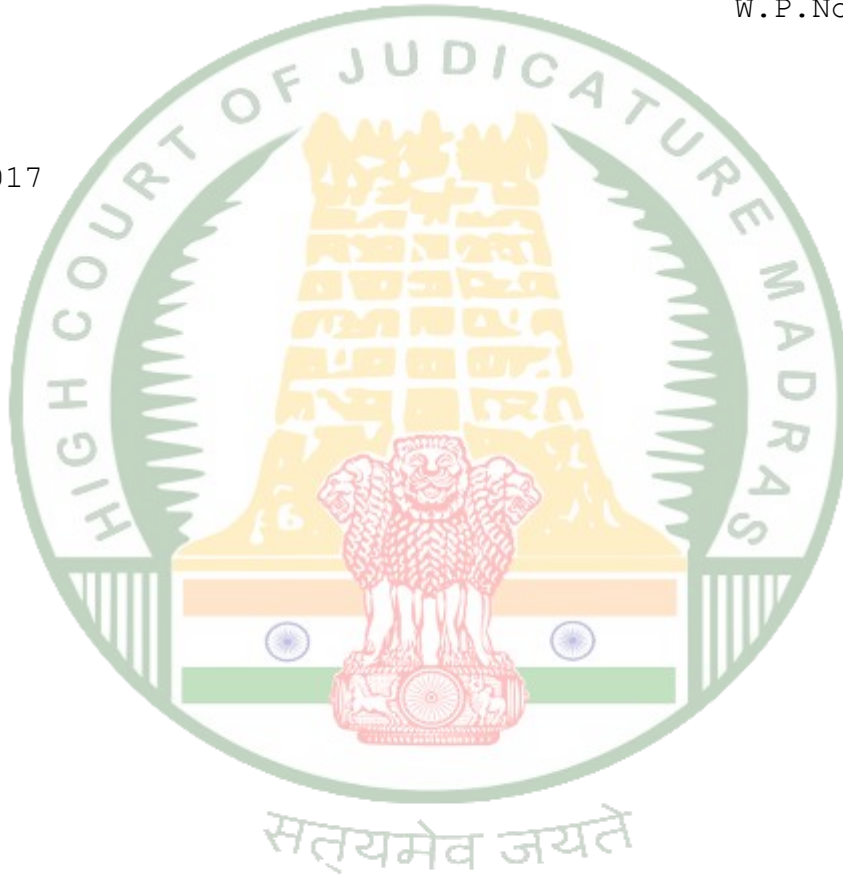
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+1 cc to Mr.A.Rajesh Kanna Advocate sr 16208

W.P.No.11600/2015

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