

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Writ Petition No.13497 of 2015
and WMP.No.34521 of 2016
and M.P.No.2 of 2015

V.Manoharan

...Petitioner

Vs.

1. The Secretary to Government
Home (Transport-II-A) Department
Fort St.George
Chennai-600 009
 2. The Secretary
Tamil Nadu Public Service Commission
Frazer Bridge Road
Park Town
Chennai-600 003
 3. R.Baskar
R3 impleaded as per order dated 04.11.2016
in W.M.P. No 29409 of 2016 in W.P.No.13497 of 2015.
 4. M.S.K.Manibharathi
R4 impleaded as per order dated 05.12.2017
in W.M.P. No 33122/2017 in W.P.No.13497 of 2015.
- ...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India praying for a Writ Of Madamus directing the second respondent to consider the name of the petitioner for selection and appointment to the post of Motor Vehicle Inspector Grade -II by valuing the written answer sheet of the petitioner bearing Reg.No.00102081 and consequently,select and appoint the petitioner as Motor Vehicle Inspector Grade-II as has been done on the case of a similarly placed candidate with Reg.No.00102044 who has been provisionally selected for the said post if necessary by directing relaxation of condition if any which stand in the way of the petitioner for selection and appointment.

For Petitioner : Mr.U.Karunakaran

For Respondents : Mr.V.Jayaprakash Narayanan
Spl.Govt.Pleader for R1

Dr.M.Devendran,
Standing counsel for R2
Mr.N.Anand Venkatesh
for Mr.A.Esakkiappan for R3
Mr.K.Raju for R4.

O R D E R

This Writ Petition has been filed by Thiru.V.Manoharan, seeking writ of Mandamus directing the Tamil Nadu Public Service Commission (hereinafter called as "TNPSC"), the 2nd respondent herein, to consider his name for selection and appointment to the post of Motor Vehicle Inspector Grade-II, by valuing the answer sheet bearing Reg.No.00102081 with consequential direction to select and appoint the petitioner as Motor Vehicle Inspector Grade-II, as done on the case of a similarly placed candidate with Registration No.00102044 who has been provisionally selected for the said post, if necessary by relaxing the condition.

2. The arguments put forth by the learned counsel for the Petitioner is as follows:-

a) The Petitioner belongs to Backward class community and he obtained Diploma in Mechanical Engineering/B.E and also possess the Post Graduate Diploma in Automobile Engineering. With this qualification, he became eligible to write the examination not only in Mechanical Engineering but also in Automobile Engineering.

b) It is at this time, the TNPSC has issued a notification No.24/2012 on 25.06.2012 inviting applications through online for the post of Motor Vehicle Inspector Grade-II. The petitioner applied for the same and as per the instruction mentioned in the Notification, the Petitioner specifically mentioned in the application that, he possessed Diploma in Mechanical Engineering as against the Column for the prescribed qualification and since he has specifically stated that he passed Post Graduate Diploma in Automobile Technology, he was issued with Hall Ticket with Reg.No.00102081 and he has taken part in the written examination for the post of Motor Vehicle Inspector Grade-II on 26.08.2012. It is also pleaded that the Petitioner was permitted to write the examination in Automobile Engineering without any objection. Now, the grievance of the Petitioner is that, the 2nd respondent-TNPSC has not valued his paper for the reason best known to them.

c) On enquiry, the petitioner came to know that his answers were not valued and therefore, he sent a representation to TNPSC on E-Mail on 17.02.2015 requesting to value his answer paper after the written examination results were published. Inspite of

the above request, his answer sheets have not been valued till today.

d) When several other candidates have got the communication that their papers have been invalidated for having written their examination in Automobile Engineering and as a result, consequently their results were not published, they have also made representations. The Petitioner also having sent representation and finding no response, has come before this court seeking to value his answer sheets and for a direction to consider him for selection and appointment to the post of Motor Vehicle Inspector Grade-II for the year 2012.

3) Mr.Karunakaran, the learned counsel for the Petitioner contended that when the petitioner has obtained Diploma in Mechanical Engineering/B.E., as also Post Graduate Diploma in Automobile Engineering, it is his option to write examination either in Automobile Engineering or in Mechanical Engineering. As such, the petitioner had the choice to write the examination either in Mechanical Engineer or in Automobile Engineer. Hence, he was permitted to write the examination on 26.08.2012 in Automobile Engineering. In such circumstances, not valuating the answer papers of the petitioner is wholly unjustified and therefore a direction may be given to the respondents to consider the name of the petitioner for selection.

4) According to the learned counsel for the Petitioner, had TNPSC valued the answer papers written by the Petitioner, who had attended all the questions, he would have scored more marks and could have been selected for the post of Motor Vehicle Inspector Grade-III and therefore, a direction may be issued to the respondent-TNPSC, to value the answer sheets forthwith.

5) Opposing the above prayer, the learned counsel appearing for the 2nd respondent-TNPSC filed a detailed counter affidavit, stating among other things that in the online application for the said post, the petitioner mentioned his educational qualification as "Other Equivalent Qualification"; in the other equivalent qualification column, he mentioned as Post Diploma in Automobile Engineering.

6) The learned counsel appearing for respondents 3 and 4 submitted that when the Notification dated 25.06.2012 has been issued with a specific note, stating that candidates who have studied in a particular subject and possessing the required educational qualification, should indicate the said subject in the application form, while so, in the case on hand, the petitioner, who has submitted his application through online, mentioned the subject he studied as Mechanical Engineering and therefore, the petitioner was bound to write the examination only in the said subject.

7) Mr.K.Raju and Mr.N.Anand Venkatesan, learned counsel appearing for 3rd and 4th respondents, respectively taking to the application filed by the petitioner through online, candidly submitted that the Petitioner himself mentioned his qualification as Diploma in Mechanical Engineer/B.E., optional subject as Automobile Engineering, therefore, when the note and instruction in the Notification, specifically mentioned that the candidate who has acquired the educational qualification in a particular subject should write the examination only in the said subject i.e., having acquired the said educational qualification - Mechanical Engineering, he cannot write in Automobile Engineering. Therefore, the 2nd respondent has rightly chosen not to value the answer sheets of the Petitioner.

8) The learned counsel also submitted that although the petitioner has obtained Post Graduate Diploma in Automobile Engineering, at the time of sending his application through online, having not chosen his subject appropriately, he has miserably failed to indicate his educational qualification as Automobile Engineering, but only as Mechanical Engineering. However, at the time of written examination, having chosen a different subject arbitrarily than the one he has quoted in the application and his failure to write his exam in Mechanical Engineering and wrongly choosing to write in Automobile Engineering, becomes fatal to his selection. Therefore, the 2nd respondent- TNPSC, on the basis of the instruction and note given in the Notification and keeping in mind, that the petitioner is a candidate studied and having educational qualification only in Mechanical Engineering, failed to write his exam in the Mechanical Engineering, has refused to value his answer sheets, which was actually written in the subject of Automobile Engineering.

9) The learned counsel for the respondents emphatically pleaded that this issue has also been rightly answered by the Division Bench of this Court in an unreported decision in W.A.Nos.1857 of 2012 etc Batch, by judgment dated 01.04.2015 [S.Geethaapathy & others Vs. The Secretary to Government, Home (Transport II-A) Department, Fort St.George, Chennai].

10) I have perused the above cited judgment and I am in full agreement with the stand taken by the 2nd respondent-TNPSC.

11) On a perusal of all the material records placed before this court, it is seen that the application sent by the Petitioner through online clearly shows that the petitioner has educational qualification only in Mechanical Engineering. The said application also shows that his optional subject is Automobile Engineering. The instruction and note given in the Notification clearly shows that the candidate who has got the

educational qualification in a particular subject should write the examination in the said subject. This being the factual scenario, when the petitioner has acquired his educational qualification in Mechanical Engineering, he should write his examination only in the Mechanical Engineering as per the instructions given in the Notification. Further, when the petitioner has mentioned in the application form that his educational qualification is Mechanical Engineering, he has erroneously on his own violated the aforesaid instruction and also the note stated in the Notification, just to write the examination in Automobile Engineering.

12) One another aspect to be mentioned herein is that when the petitioner has also obtained P.G.Diploma in Automobile Engineering, besides having Diploma in Mechanical Engineering/B.E., he should have mentioned in the application form that he has acquired qualification in Automobile Engineering and he should have opted the same, but, which he has not done so. Therefore, the decision taken by the TNPSC, 2nd respondent herein, refusing to value his answer sheets cannot be found fault with.

13) Moreover, the Division Bench of this Court, in the unreported decision cited supra, specifically mentioned in paragraph 48 as under:-

"48. But, we do not think that there can be any estoppel or acquiescence. When the notification dated 25.06.2012 made it very clear that the candidates should take the examination in a paper in which they had secured the prescribed qualification, these persons ought not to have taken a chance and that too, at the last minute at the examination centre, to write the examination in a different subject. Till these petitioners/appellants went to the examination centres, they were not communication with any order permitting them to take the examination in a subject of their choice. Therefore, if they had chosen to follow the oral instructions of the invigilators in the examination hall, contrary to the conditions stipulated in the notification, they have taken a calculated risk and they have done so at their own peril. Hence, these candidates cannot plead estoppel or acquiescence. The invigilators were not the agents of the Public Service Commission, to permit any candidate to act contrary to the condition stipulated in the notification. Therefore, this argument cannot be sustained."

14) In the light of the above cited judgment and the finding that the stand taken by the TNPSC cannot be found fault with at this distant point of time, this court is unable to see any merit in this Writ Petition. Accordingly, the writ petition fails and the same is dismissed. No costs. Consequently, connected MPs are closed.

15) In view of the dismissal of the Writ Petition, the 2nd respondent, TNPSC is directed to proceed with the matter and to issue the appointment order to the selected candidates.

s/d-
Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

To

1. The Secretary to Government
Home (Transport-II-A) Department
Fort St. George
Chennai-600 009

2. The Secretary
Tamil Nadu Public Service Commission
Frazer Bridge Road
Park Town
Chennai-600 003

+1 CC to Mr.M. Devendran, Advocate sr 91269.
+2 Ccs to Mr.K. Raju, Advocate sr 91337.
+1 CC to The Govt. Pleader sr 91425.
+2 Ccs to Mr.A. Esakkiappan, Advocate sr 91517.

SP(27/12/2017)

W.P.No.13497 of 2015

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