

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 24.10.2017

CORAM:

THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.32855 of 2013

and

M.P.No.1 of 2013

N.Senthil

.. Petitioner

Vs.

1.The Chairman,
Tamil Nadu Public Service Commission,
Frazer Bridge Road, V.O.C. Nagar,
Chennai 600 003.

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

3.The Secretary,
Department of Handlooms and Textiles,
Fort. St. George,
Chennai.

4.The Secretary,
Higher Education Department,
Chennai-9.

5.The Registrar,
Bharathiyar University,
Coimbatore 641 046.

6.R.Gowri

...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 3rd Respondent to appoint the Petitioner in the post of "Senior Technical Assistant" in Handlooms and Textile Department, Government of Tamil Nadu based on the next position awarded to the petitioner in the Reserve List to the post of Senior Technical Assistant, Handlooms and Textile Department published by the 2nd Respondent.

For Petitioner : Mr.E.P.Senniayangiri
For Respondents : Dr.M.Devendran, (for R1 and R2)
Standing Counsel for TNPSC
Mr.V.S.Sethuraman (for R3 and R4),
Additional Advocate General
Assisted by Mr.R.Govindasamy,
Special Government Pleader
Non Appearance (for R5 and R6)

ORDER

The Petitioner has filed this writ Petition seeking issuance of a Writ of Mandamus to direct the 3rd respondents to appoint the petitioner in the post of "Senior Technical Assistant" in Handlooms and Textile Department, Government of Tamil Nadu based on the next position awarded to the petitioner in the reserve list to the post of Senior Technical Assistant, Handlooms and Textile Department published by the 2nd respondent.

2. The facts in the nutshell are as under: The Petitioner belongs to the Arunthathiyar community and has completed his Diploma in Textile Technology and B.Tech. Textile Technology. On 31.08.2012, the respondent Tamil Nadu Public Service Commission has called for applications to fill up 2 vacancies in the post of Senior Technical Assistant in the department of the Handlooms and Textiles via notification 32/2012. The above said 2 post were reserved for the General category and the Scheduled Caste (Arunthathiyars) Women [Hereinafter referred as SC (A)(W)]. The recruitment process is divided into written and oral test and the candidates selected for the written test will be called for the oral test. The minimum marks prescribed for getting qualified for SC candidates in written examination and oral test is 102. The candidates have to secure a minimum qualifying marks of 102 in both the written test and oral test combined for selection in the SC(A)(W) category.

3. The Petitioner has applied for the above said post and wrote the written examination and thereafter attended the oral test. Subsequently, the 2nd respondent has released the common provisional list of selected candidates and reserve list on 23.04.2013 for the above said post. The cumulative mark obtained by the petitioner both in the written test and oral test is 187.50. In the said list, the 6th respondent was provisionally selected for the reserved category of SC (A)(W) and the name of

the petitioner was placed in the reserved list for the SC (A)(W) category. In the event of any cancellation of the lady candidate, then, the petitioner will be appointed.

4. It is the case of the petitioner that the 6th respondent does not possess the required qualification prescribed by the respondent. The required qualification for the above said post was B.Sc. degree in Textile Technology whereas the 6th respondent is a graduate in B.Sc. Costume Design and Fashion. In this regard, the petitioner has sent a representation to the 2nd respondent on 26.04.2013 seeking the educational qualifications of the 6th respondent and the grounds on which she was qualified for the above said post. Since the 2nd respondent remained heedless to the representation of the petitioner, he later filed a W.P No. 13774 of 2013 on the file of this Hon'ble Court directing the 2nd respondent to dispose the above said representation. Later the 2nd respondent on 27.09.2013 vide its proceedings in Memo No.5383/OTD-A3/2011 had categorically stated that the 6th respondent does not possess the qualification prescribed in the notification and she was selected on the basis of equivalence certificate issued by the Bharathiar University.

5. The factual antecedents being so the petitioner has sent an application on 30.04.2013 to the Public Information Officer, Higher education department raising several queries as to the validity of the equivalence certificate issued by the 5th respondent. The Public Information Officer, Higher education department sent a reply on 22.05.2013 by its proceedings in reference No. 9258/K2/2013-1 stating that based on the recommendations of the Tamil Nadu Public Service Commission orders will be issued by the Government level for Equivalence of Subject". Based on the above said letter, the petitioner contends that the equivalent certificate issued by the 5th respondent does not have any legal sanction.

6. In the counter affidavit filed on behalf of the respondents 1 and 2, it is averred that the 6th respondent had produced a letter dated 28.02.2013 obtained from the 5th respondent stating that "B.Sc. Costume Design and Fashion Degree of Bharathiar University can be considered as equivalent to B.Sc. Textiles Technology degree". It is further stated that the 6th respondent has not been issued with appointment orders as the candidate possess B.Sc., (Costume Design) and M.Sc., (Apparel Production) and sought the clarification from the commission in this regard. Accordingly the commission has placed the

educational qualification of the 6th respondent before the Equivalent Committee for its decision in this regard and further action will be taken based on the decision of the Equivalence Committee. Based on these averments it was pleaded that the writ petition should be dismissed as devoid of merits.

7. I heard Mr.E.P.Senniyangiri, learned counsel appearing for the petitioner and Dr.M.Devendran, learned Standing Counsel appearing on behalf of the respondents 1 and 2, Mr.V.S.Sethuraman, learned Additional Advocate General Assisted by Mr.R.Govindasamy, learned Special Government Pleader for the respondents 3 and 4, there was no representation for the respondents 5 and 6 and perused the documents available on record.

8. The primary issue that arose in this present petition is that whether the equivalent certificate issued by the 5th respondent stating that the B.Sc. Costume Design and Fashion Degree of Bharathiar University can be considered as equivalent to B.Sc. Textiles Technology degree or not?

9. In this circumstance, the 2nd respondent vide proceedings in 507/RND-F1/2014 had forwarded a letter to the 5th respondent; The Registrar, Madurai Kamaraj University; The Registrar, National Institute of Technology at Trichy and Chennai and requested to furnish the views/ remarks and unit wise comparative statement along with the percentage of similarities between the said subjects so as to place the said subjects before the equivalence committee to arrive at a decision in this regard. But the universities had sent a reply that the said B.Sc. Textile Technology course is not offered and hence they are unable to furnish their views in this regard. It is pertinent to note that even the 5th respondent vide its proceedings in BU/S3/4369/2014 dated 10.03.2015 had stated that the university is not offering B.Sc. Textile Technology course in the affiliated college and offered no views in this regard. The 4th respondent vide proceedings in RC.No.799/2017 A dated 10.10.2017 had replied to the 2nd respondent that

"There is no programme by name B.Sc., Textile Technology is/was offered by any university now or earlier. Hence, it is the considered opinion of the Committee that it is not possible to find equivalence for B.Sc (Costume Design and Fashion) to a non-existent programme'.

10. In the case on hand, the petitioner has acquired the prescribed qualification for the post of Senior Technical Assistant, Department of Handlooms and Textile as per the notification issued by the department of the 2nd respondent. He has also obtained a cumulative mark of 187.50 both in the written test and oral test conducted by the department. Whereas the 6th respondent does not possess the prescribed qualification for the above said post. The 6th respondent has submitted the equivalent certificate issued by the 5th respondent stating that "the B.Sc. Costume Design and Fashion Degree of Bharathiar University can be considered as equivalent to B.Sc. Textiles Technology degree". However, the 5th respondent had stated that the university is not offering B.Sc. Textile Technology course in the affiliated college and no remarks regarding the equivalent certificate was offered. Likewise, the 4th respondent too reiterated that the above said course is/was not offered by any university and hence it is not in a position to find equivalence for a non-existent programme.

11. The primary issue of equivalent certificate issued by the 5th respondent stating that the B.Sc. Costume Design and Fashion Degree of Bharathiar University can be considered as equivalent to B.Sc. Textiles Technology degree is not conclusively proved and since the 6th respondent's claim purely rests on the equivalent certificate for her appointment to the above said post, the same is dismissed. In this situation on consideration of the notification No.32/2012 issued by the TNPSC dated 31.08.2012 regarding the rule of reservation of appointment, whereby in point 'D' it is stated that "if no qualified and suitable women candidate is available for selection against the vacancy reserved for Women, that vacancy will be filled by male candidate belonging to the respective communal category". Hence the petitioner is duly qualified when appreciated on the basis of the prescribed qualifications as mandated in the notification issued by the department of the 2nd respondent.

12. In the result:

(a) the writ petition is allowed by directing the 3rd respondent to appoint the petitioner to the post of "Senior Technical Assistant" in Handlooms and Textile Department, Government of Tamil Nadu;

(b) the 3rd respondent is directed to forbear from appointing the 6th respondent to the post of "Senior Technical Assistant" in Handlooms and Textile Department, Government of Tamil Nadu;

(c) the said exercise shall be done within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

vs

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

- 1.The Chairman,
Tamil Nadu Public Service Commission,
Frazer Bridge Road, V.O.C. Nagar,
Chennai-600 003.
- 2.The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road, V.O.C. Nagar,
Chennai 600 003.
- 3.The Secretary to Government,
Department of Handlooms and Textiles,
Fort. St. George,
Chennai.
- 4.The Secretary to Government,
Higher Education Department,
Chennai-9.
- 5.The Registrar,
Bharathiyar University,
Coimbatore 641 046.

+lcc to Mr.E.P.Senniappangiri, Advocate Sr.No.75761
+lcc to Mr.Devendran, Advocate Sr.No.75022

sm:30.1.2018

W.P.No.32855 of 2013
and
M.P.No.1 of 2013