

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2017

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THE HONOURABLE MR. JUSTICE R. SURESH KUMAR

W.P.No.38250 of 2004
and WPMP No.45775 of 2004

N.Gunasekaran

... Petitioner

Vs.

The Secretary,
Tamil Nadu Public Service Commission,
Anna Salai,
Chennai.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, to call for the records of the respondent in No.7873/OD-D1/2000, dated 15.11.2000, and quash the same and direct the respondent to call the petitioner for oral test as per the Notification dated 18.08.1998 for the selection of candidates to the post of District Educational Officer in the Tamil Nadu School Educational Service.

For Petitioner : Dr.R.Gopinath

For Respondent : Mr.Dr.M.Devendran
Standing Counsel for TNPSC

ORDER

The prayer sought for in this Writ Petition is for a Writ of Certiorarified Mandamus, to call for the records in No.7873/OD-D1/2000, dated 15.11.2000, quash the same and direct the respondent to call the petitioner for Oral Test as per the Notification dated 18.08.1998 for the selection of candidates to the post of District Educational Officer in the Tamil Nadu School Educational Service.

The very short facts which are required to be noticed for disposal of this Writ Petition is as follows:

2.The petitioner, after having qualified to be competent like the similarly placed candidates, had applied for the post of District Educational Officer to the respondent, pursuant to the Notification issued in Notification No.22/98 dated 26.08.1998.

3. According to the petitioner, as per the selection procedure contemplated in the said Notification, especially, under the head "Procedure of Selection", initially, the candidates will be called for written examination and once they completed the Written examination, they will be called for interview. In this case, the case of the petitioner is that, he was not selected for oral test for selection to the post of District Educational Officer, even though the petitioner appeared for written examination and obtained marks, which has been communicated to the petitioner on 15.11.2000. The petitioner had not called for oral test through the said communication and therefore, against the non calling of the petitioner's candidature by the respondent Department, the petitioner has approached this Court by filing this Writ Petition with the abovesaid prayer.

4. I have heard Dr.R.Gopinath, learned counsel appearing for the petitioner, who would submit that, as per the procedure established in the Notification, under the head "Procedure for Selection", it is a must for every candidate to participate in the Written examination as well as in the oral test, since it has been made compulsory. However, inspite of the component of compulsion to participate in both the written and oral test, the petitioner had not been called for the oral test and therefore, it is the violation of the said procedure as contemplated under the Notification. In this regard, the learned counsel appearing for the petitioner relied upon the relevant clause of the prospectus issued by the respondent, which reads thus:

PROCEDURE OF SELECTION:

The selection will be made in two successive stages i.e., (i) Main Written Examination and (ii) Oral Test in the shape of an interview. The final selection will be made on the basis of the total marks obtained by the candidates in the Main Written Examination and oral test taken together subject to the rule of reservation of appointments. The appearance at the Written and Oral Test is compulsory. The details of the examinations are given below.

(Paragraph 19 of the Commission's Instructions, etc., for candidates will not apply to this recruitment.)"

5. Since the petitioner has successfully completed the Written Examination and obtained marks, he should have been called for Oral Test, which action the respondent has not followed through the impugned communication dated 15.11.2000. Therefore, the same has to be interfered with and a direction to

the respondent to call the petitioner for the Oral Test be given

6.I have heard Dr.M.Devendran, learned Standing counsel appearing for the respondent/Commission, who would submit that though the Procedure for Selection states that the Written Test and the Oral Test is compulsory to the candidates, it does not mean that every candidate would automatically be called for oral test unmindful of the performance in written test, and therefore, the interpretation sought to be made by the petitioner's side as projected by the learned counsel appearing for the petitioner, cannot be acceded to, for the reasons that candidates would be called for oral test depending upon the marks obtained by the candidates in the written test but, the petitioner has not reached the zone of consideration based on his marks in the written test for calling him to the oral test.

7.I have considered the said submissions made by both sides.

8.As has been rightly contended by the learned Standing counsel appearing for the respondent/Commission, the Procedure for Selection as contemplated in the Notification is only to state that, every candidate, who has to reach the selection process, at the final stage of selection, has to undergo both the Written Test as well as the Oral Test. Every candidate will be permitted to write the Written examination, once the Written Test is over, after marks are published, based on the marks secured, based on the communal reservation cut-off marks will be fixed depending upon the vacancies. Thereafter, a particular ratio will be fixed by the respondent for calling candidates for interview, who reaches the zone of selection.

9.Here, in the case in hand, the petitioner has participated in the written examination. Based on the marks obtained by him, he has not reached the zone of consideration to a particular communal roaster, as he belongs Adidravidar Community. The communication regarding the oral test was communicated on 15.11.2000, for those who reaches the zone of selection process. Once the candidate participated in the Written and Oral test and obtained the marks in oral test as well as the written test, both will be put together and the final marks would be calculated and accordingly, the rank for selection list would be released. These are the procedures being adopted by the Commission for a long years. Therefore, the interpretation of the petitioner sought to be given in this regard, especially, in the context of the clause under the head "Procedure of Selection" that every candidate shall be permitted to write the examination as well as to be permitted to participate in the oral test, is totally unknown to the selection process and therefore, based on such surmises he can not build up a case as sought for. Hence, this Writ Petitioner

does not make out a case and accordingly, this Writ Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar (CS VIII)

//True copy//

Sub Assistant Registrar

mps

To

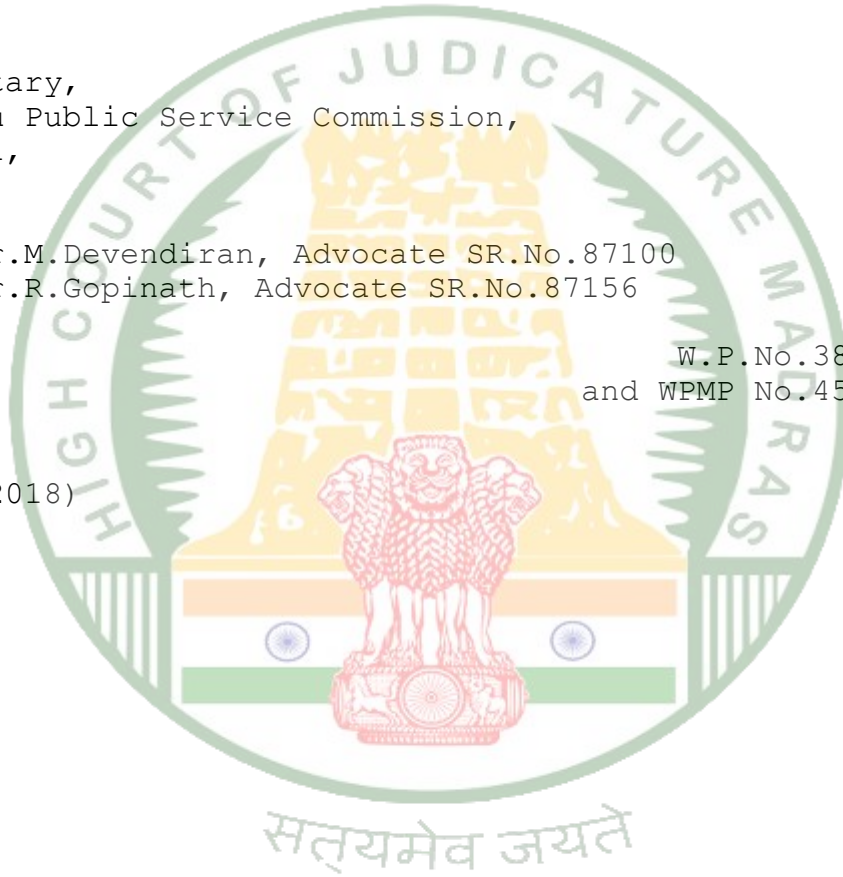
The Secretary,
Tamil Nadu Public Service Commission,
Anna Salai,
Chennai.

+1cc to Mr.M.Devendiran, Advocate SR.No.87100

+1cc to Mr.R.Gopinath, Advocate SR.No.87156

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MR (CO)
GN (29/01/2018)



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