



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2017

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.3476 of 2017

and

W.M.P (MD) Nos.2827 to 2829 of 2017

M.Kasthuri

... Petitioner

Vs.

1.The Government of Tamil Nadu,
represented by its Secretary,
Personnel and Administrative Reforms Department,
Secretariat, Fort St.George,
Chennai - 600 009.

2.The Tamil Nadu Public Service Commission,
represented by its Controller of Examination,
Frazer Bridge Road, VOC Nagar, Park Town,
Chennai - 600 003.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus calling for the records relating to the impugned order of result of the examination published by the second respondent dated 21.2.2017 in respect of the Petitioner's Registration No.260704126 for the examination in Group IV Services for the year 2015-16 (Service Code No.006) held on 6.11.2016 and to quash the same and consequently to direct the second respondent to publish the result of the Petitioner and sponsor the Petitioner to the first respondent for the appointment if she is qualified in the examination for Group IV services for the year 2015-2016 (Service Code No.006) held on 6.11.2016.

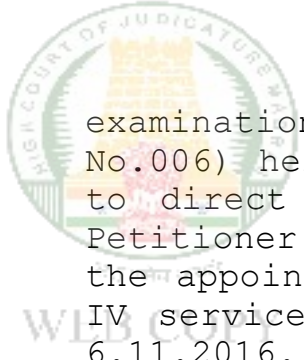
For Petitioner : M/s.T.Antony Arul Raj

For Respondent-1 : Mr.S.Sathish Kumar
Addl.Govt.Pleader

For Respondent-2 : Mr.D.Sivaraman

O R D E R

This Writ Petition has been filed, praying this Court for issuance of a writ of Certiorarified Mandamus calling for the records relating to the impugned order of result of the examination published by the second respondent dated 21.2.2017 in respect of the Petitioner's Registration No.260704126 for the



examination in Group IV Services for the year 2015-16 (Service Code No.006) held on 6.11.2016 and to quash the same and consequently to direct the second respondent to publish the result of the Petitioner and sponsor the Petitioner to the first respondent for the appointment if she is qualified in the examination for Group IV services for the year 2015-2016 (Service Code No.006) held on 6.11.2016.

2.Mr.S.Sathish Kumar, learned Additional Government Pleader takes notice for the first respondent and Mr.D.Sivaraman, learned counsel takes notice for the second respondent. By consent of both parties, the Writ Petition itself is taken up for final disposal at the admission stage itself.

3.The Petitioner is in possession of B.Lit in Tamil, apart from having qualified in Shorthand and typewriting in Tamil and English. The Petitioner submitted that she is eligible to be appointed to the post of Stenographer and that the second respondent-TNPSC has issued a notification on 9.8.2016 for written examination to fill up the post of Grade-IV service for the year 2015-2016.The Petitioner submitted that she has applied to the said post on 10.8.2016 and the application was routed through online and the Registration number was allotted and examination was held on 6.11.2016. The petitioner further submitted that she was issued with a Hall Ticket to appear for the examination on 6.11.2016 and the result was published on 23.11.2016. But unfortunately, her application was rejected on the ground that she has not paid the exam fees, as she has already availed three free chances and necessarily the Petitioner will have to pay the exam fees after three free chances. The Petitioner also submitted that she applied for TNPSC seven times and also paid exam fees on the earlier occasion. But however by oversight, while applying for the present post, pursuant to the notification dated 9.8.2016, she has mentioned that she is entitled to concession. The Petitioner submitted that the application was properly registered and the same has not been rejected on the ground that the fees is not paid.

4.According to the Petitioner, in the advertisement/notification dated 9.8.2016, nowhere it is mentioned that for non-payment of fees, application or the candidature of the Petitioner would be rejected. Apart from that, he submitted that in the absence of such clause in the notification dated 09.08.2016, rejection on the said ground by simply referring to the clause in the application is highly arbitrary. The Petitioner further submitted that the first respondent had a chance to reject the application at the threshold and the Petitioner would have paid the exam fees and would not have lost her chance. Hence, the action of the respondents in rejecting the request of the Petitioner on the ground that she has not paid the exam fees is not acceptable and



a meritorious candidate cannot be deprived of the benefit of selection /appointment as she is fully qualified in the examination held for Grade-IV examination for the year 2015-16 (Service Code 006).

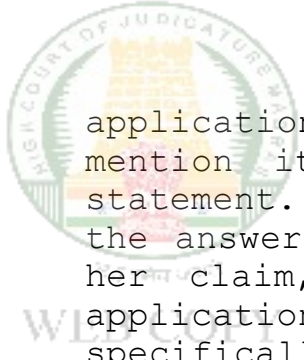
5. At the time of admission itself, Mr.D.Sivaraman, learned counsel appearing for the second respondent/TNPSC would submit that the Petitioner belongs to Backward Community and that three chances would be given to candidates belonging to Backward Community to appear for TNPSC exams without payment and they are bound to remit exam fees in case they become unsuccessful even after availing three chances. He would further submit that the case of the petitioner is one falling under such category and she has not paid necessary examination fees after availing three free chances for the TNPSC exams. In support of his submission, he referred to the application made by the Petitioner and the relevant portion with regard to fee is extracted hereunder:

"Note: If any of the candidates who have already availed two free chances in case of Ex-Service men category or three free chances in case of Degree holders of BC/BCM/MBC/DC category or those who wants to pay the examination fees should choose the option No and to pay the examination fees. The application of candidates who makes a false claim for exemption from payment of examination fee will be rejected at any stage of selection. The option(yes/No) for the fee concession is not allowed to edit after submitting the application."

6. In this case, the petitioner has stated that she is eligible for fee concession only for three free chances. It has been clearly mentioned that the candidates who make false claim regarding examination fees will be rejected at any stage of selection process and above all, there is no provision to re-edit the fee column once the application has been finally submitted. Learned counsel for the respondent submitted that since the Petitioner has not given correct details in respect of entitlement of free concession, her candidature has not been considered and the same has been rightly rejected.

7. It is not in dispute that the Petitioner has applied for 7th time and already availed free concession for three times. The only issue to be decided in this case is as to whether there is an inadvertent omission of mentioning of fee concession particulars has got to be considered.

8. The Petitioner is not an illiterate and she studied upto B.Lit in Tamil, apart from having stenography and typewriting skills in English and Tamil. The contents of the application are not contrary to the notification, dated 9.8.2016. Even assuming that fee concession is not mentioned in the



application, it is mandatory on the part of the Petitioner to mention it correctly, otherwise it would amount to incorrect statement. Assuming that the Petitioner has not mentioned any of the answer and left it blank, this Court could have considered her claim, if she is otherwise eligible. On perusal of the application, it is seen that in the said column, she has to specifically enter "Yes or No" and if not mentioned or wrongly mentioned, the Petitioner cannot redeem it after submitting the application. Secondly, merely because the Petitioner has been permitted to take up the examination based on the Hall Ticket issued to the Petitioner and that the second respondent should have rejected the application at the threshold, it cannot be said that the act of the petitioner is justified. A duty is cast upon the Petitioner to fill all the columns and that the petitioner has tried to evade fees concession, which the Petitioner is not at all eligible. I find no reason to grant the relief sought for by the Petitioner. Thus the Writ Petition fails.

9. Accordingly, the Writ Petition stands dismissed. Consequently, connected Miscellaneous Petition's are dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To:

1. Secretary,
The Government of Tamil Nadu,
Personnel and Administrative Reforms Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2. Controller of Examination,
The Tamil Nadu Public Service Commission,
Frazer Bridge Road, VOC Nagar, Park Town,
Chennai - 600 003.

+1cc to M/s. D.SIVARAMAN Advocate in SR. No.11327
+1cc to SPECIAL GOVERNMENT PLEADER in SR. No.11579
+1cc to M/s. T.ANTONY ARUL RAJ Advocate in SR. No.11686
VSN
JS/KKR/SAR.4/6.6.2017/4P-6C

W.P. (MD) No.3476 of 2017

and

W.M.P (MD) Nos.2827 to 2829 of 2017

28.02.2017