



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 24.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

W.P. (MD) No.1632 of 2011
of
M.P. (MD) No.1 of 2011

C.Yona

... Petitioner

Vs.

1.The Government of Tamilnadu,
Rep. by its Secretary,
Department of Personal,
Secretariat,
Chennai.

2.Tamil Nadu Public Service Commission,
Rep. by its The Secretary,
Commercial Tax Offices Building Annex,
No.1, Greams Road,
Chennai - 6.

3.The Revenue Divisional Officer,
Paramakudi,
Ramanathapuram District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent to appoint the petitioner in the recruitment (direct) posts including in Combined Subordinate Services Examination-I, 2008 (TNPSC (CSSE-I)) with consequential benefits within the time prescribed by this Court.

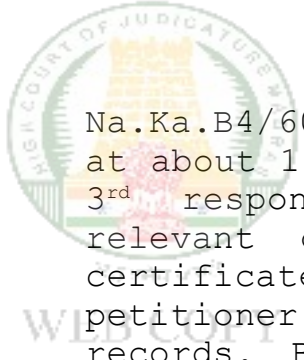
For Petitioner : Mr.T.Lajapathi Roy
For Respondents : Mr.K.Guru (for R1 and R3)
Additional Government Pleader
Mr.K.K.Senthil (for R2)

O R D E R

This Writ petition has been filed for issuing a Writ of Mandamus, directing the 2nd respondent to appoint the petitioner in the recruitment (direct) posts including in Combined Subordinate Services Examination-I, 2008 (TNPSC (CSSE-I)) with consequential benefits within the time prescribed by this Court.

announced

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Na.Ka.B4/6067/2010 and informed the petitioner that on 30.08.2010 at about 11.00 a.m. the writ petitioner should appeared before the 3rd respondent Revenue Divisional Officer, Paramakudi, with relevant documents to prove the genuinity of the community certificate of the writ petitioner. Therefore, on 30.08.2010, this petitioner has appeared before the 3rd respondent with relevant records. But, even after the lapse of five months, after the enquiry conducted by the 3rd respondent, there was no appointment order issued by the 2nd respondent for the reason best known to them. Thereafter, the writ petitioner went on several occasions to the office of the 2nd respondent, in respect of his appointment, but there was no proper reply from the 2nd respondent.

4. In the said circumstances, the petitioner has sent a representation on 30.12.2010 to the 2nd respondent under Right to Information Act, 2005 and requested the reply in respect of his appointment order. But the said representation also not considered properly. The petitioner states that his number is included in the result dated 02.06.2010, on the part of the general category and not for reserved category. Therefore, there is no question of verification of the genuineness of his community certificate. Later on, again on 10.01.2011, the petitioner also sent another representation to the 2nd respondent TNPSC in respect of his appointment, even then, he has not received any reply. The writ petitioner also filed the present writ petition directing the 2nd respondent to appoint the petitioner in the recruitment (direct) posts including in Combined Subordinate Services Examination-I, 2008 (TNPSC (CSSE-I)) with consequential benefits within the prescribed period.

5. A counter affidavit has been filed by the 2nd respondent in which it is admitted that on 10.11.2008, the 2nd respondent TNPSC in his Notification/ Advertisement No.176 dated 10.11.2008 and supplemental Notification/ Advertisement No.178 dated 10.12.2008 invited applications from the qualified candidates for the appointment by direct recruitment of posts including in Combined Subordinate Services Examination-I, 2008. The last date for the receipt of applications at the Commission's Office was on 30.12.2008 and the written examination for the said recruitment was conducted on 22.03.2009 all over the State.

6. The 2nd respondent also states that the selection process for the appointment to the posts mentioned against Serial Nos.1 to 12 of the Table I in the notification was to be in two successive stages viz. (i) Written Examinations and (ii) Oral Test in the shape of an interview. The final selection was to be made on the basis of total marks obtained by the candidates in the written examination and oral test taken together and the post option reserved for the candidates and by following the rule of reservation of appointments separately for each post and unit.



7.The 2nd respondent also states that two separate Rank lists were prepared for interview posts mentioned against Sl.Nos.1 to 12 under Table I and for Non-interview posts (Sl.No.13 to 16 under Table II). Selection in respect of Non-interview posts to be taken up after finalizing the selection for interview posts mentioned against Sl.Nos.1 to 12 excluding those who had been selected for interview posts. It is the further case of the 2nd respondent that the list of candidates summoned for Oral test based on the marks obtained by the candidates in the written examination, claims made by the candidates in their applications and in accordance with the Rule of reservation of appointments, was published by the Commission on 28.07.2009 through the Internet and in the Commission's Office Notice Board. The Oral test for the above recruitment was conducted from 18.08.2009 to 15.10.2009. After the oral test was completed, the list of the selected candidates for interview posts (Sl.No.1 to 12 under Table I) was drawn up based on the marks obtained by the candidates in the written examination and oral test taken together with, vacancy position, post option, qualification, the rule of reservation of appointments first. Subsequently, the list of selected candidates for Non-interview posts (Sl.No.13 to 16 under Table II) was drawn based on the written marks alone with vacancy position, post option, qualification, rule of reservation appointment etc. and thereafter, both the lists of selected candidates were sent to the concerned units/Departments for issuing appointment orders.

8.The 2nd respondent further states that the petitioner Thiru.C.Yona (Registration No.01610098) was one among the candidate who had applied to the Commission for appointment by direct recruitment to the post included in Combined Subordinate Services Examination-I, 2008. After appearing in the written examination, the petitioner was provisionally admitted to the oral test on 24.09.2009, after the oral test, based on the marks obtained by him at the written examination and the oral test taken together and with reference to the rule of reservation of appointments, vacancy position, age, qualification, the petitioner did not come up for selection for the interview posts but placed in the reserve list kept for the above said recruitment. Based on the marks obtained by him only at the written examination and with reference to the rule of reservation of appointments, vacancy position, age, qualification, the petitioner has been selected for the Non-interview post under reserved category only i.e. SC (G) Blind.

9.It is the petitioner claim in his application that he belongs to Hindu Pallan Community which is included in the Scheduled Castes and also claimed that he was differently abled and in both eyes and in support of his claim he initially produced a pass book issued by the Government of Tamil Nadu to the Commission. Later, the petitioner produced the medical



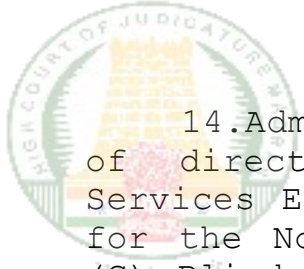
certificate dated 13.10.2009 issued by the Chairman, Regional Medical Board, Government Rajaji Hospital, Madurai. But, his application is still in provisional subject to verification of his community claim, therefore, the 2nd respondent TNPSC has been addressed to verify the genuineness of his community claim and send its report to the Commission. Therefore, the result of the petitioner has been withheld pending verification from the District Vigilance Committee. Hence, the 2nd respondent prays for dismissal of the writ petition.

10.A counter affidavit has been filed by the 3rd respondent Revenue Divisional officer, Paramakudi, Ramanathapuram District. The 3rd respondent states that the District Collector of Ramanathapuram in his letter No.Roc.Z1/48224/2010 dated 11.08.2010 has instructed the 3rd respondent to conduct enquiry regarding the genuineness of the community certificate (Sub Caste-Hindu-Pallan) No.749569 dated 06.07.1998 which was issued by the Tahsildar, Kadaladi to the petitioner and submit a detailed report.

11.The Revenue Divisional Officer, Paramakudi also states that pursuant to the letter issued by the District Collector, Ramanathapuram, dated 11.08.2010, the 3rd respondent, Revenue Divisional Officer, Paramakudi, has enquired the petitioner, Villagers, concerned Village Administrative Officer and the Revenue Divisional Officer, Paramakudi also inspected the petitioner's Village and conducted a detailed enquiry and the enquiry reveals that the petitioner and his family members following the Christianity. Hence, the above said Hindu-Pallan (Scheduled Caste) community certificate issued by the Tahsildar, Kadaladi is not genuine. In this regard, the 3rd respondent Revenue Divisional Officer, Paramakudi, has already been submitted a detailed report to the District Collector, Ramanathapuram, vide the office of the 2nd respondent in Roc.B4/6067/2010, dated 05.02.2011.

12.The Revenue Divisional Officer also states that regarding genuineness of the 'Hindu Pallan' community certificate No.749569 dated 06.07.1998 issued by the Tahsildar, Kadaladi to the petitioner Thiru.Yona S/o Chinnadurai, a detailed report has already been sent to the Collector, Ramanathapuram vide the office letter Roc.B4/6067/2010, dated 05.02.2011 after conducting a detailed enquiry. Therefore, this 3rd respondent work was completed by filing the said petition. Therefore, the 3rd respondent prays for dismissal of the writ petition.

13.I heard Mr.T.Lajapathi Roy, learned counsel appearing for the petitioner and Mr.K.Guru, learned Additional Government Pleader appearing for the respondents 1 and 3 and Mr.K.K.Senthil, appearing for the 2nd respondent and perused the entire records.



14. Admittedly, the petitioner appeared for the appointment of direct recruitment post conducting Combined Subordinate Services Examination-I, 2008 and the petitioner has been selected for the Non-interview post under reserved category only i.e. SC (G) Blind, based on the marks obtained by the petitioner in the written examination, claims made by the petitioner in his application and in accordance with the Rule of reservation of appointments, was published by the Commission on 28.07.2009 through the Internet and the notice board of the 2nd respondent, since it is the case of the 2nd respondent that the genuineness of the community certificate was sent to the 3rd respondent for verification. Pursuant to the order of the District Collector, Ramanathapuram, the 3rd respondent also conducted an interview and the same was mentioned in the counter affidavit filed by the 3rd respondent. The petitioner's religious and other records were verified. But unfortunately, the report submitted before the District Collector, Ramanathapuram on 05.02.2011 is pending for long time and more than 6 years lapse, even then, either the 2nd respondent has taken any steps to get proper reply nor the 3rd respondent has submitted the genuineness of the community certificate of the petitioner, but ultimately the petitioner only put to suffer for appointment for the past 9 years.

15. It is the case of the petitioner that though the 3rd respondent called the petitioner and directing him to produce all the relevant documents, accordingly the same was produced on 30.08.2010, but till date no appointment order was issued by the 2nd respondent. On the other hand, without producing any relevant documents and with reference to the rule of reservation of appointments, vacancy position, age, qualification, the petitioner has been selected for the Non-interview post under reserved category only i.e. SC (G) Blind, but the appointment is not afforded to the petitioner for the reason best known to the respondents 2 and 3.

16. Time and again, this Court and the Hon'ble Apex Court has categorically held that the recruitment of the post will be kept for certain periods, but fortunately and unfortunately, the 2nd respondent has selected the writ petitioner for non interview post under the reserve category in the year 2009 itself, but no appointment order is given till date, even after lapse of 8 years.

17. The writ petitioner has produced the judgment of the Hon'ble Supreme Court in the case of **K.P.Manu v. Chairman, Scrutiny Committee for Verification of Community Certificate** reported in **(2015) 4 SCC 1**, in paragraph-51, it is stated as follows:

"51. In the instant case, the appellant got married to a Christian lady and that has been held against him. It has also been opined that he could not produce any

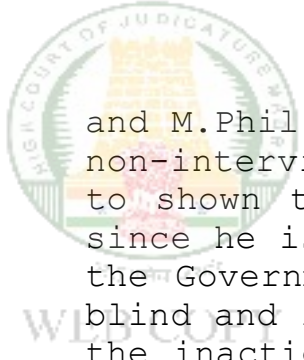


evidence to show that he has been accepted by the community for leading the life of a Hindu. As far as the marriage and leading of Hindu life are concerned, we are of the convinced opinion that, in the instant case, it really cannot be allowed to make any difference. The community which is a recognised organisation by the State Government, has granted the certificate in categorical terms in favour of the appellant. It is the community which has the final say as far as acceptance is concerned, for it accepts the person, on reconversion, and takes him within its fold. Therefore, we are inclined to hold that the appellant after reconversion had come within the fold of the community and thereby became a member of the Scheduled Caste. Had the community expelled him the matter would have been different. The acceptance is in continuum. Ergo, the reasonings ascribed by the Scrutiny Committee which have been concurred with by the High Court are wholly unsustainable."

18.As per the above judgment rendered by the Hon'ble Supreme Court, it is made clear that when the petitioner was still following the Hinduism and there is no record to show the petitioner has following the Christianity and no proper opportunity was given to prove the community and no order is passed till date, which clearly states that this petitioner is belongs to Hindu Pallan Community, which comes under the Scheduled Caste category, it is deem fit to state that the petitioner is following the Hinduism Community and he is entitled for the appointment under the reserve category SC (G) Blind and the 2nd respondent is liable to be appoint the petitioner immediately, without any further delay.

19.The 2nd respondent TNPSC in a lethargic manner, even after filing the writ petition by the writ petitioner and knowing very well that the writ petitioner has sought for appointment, but no serious action has been taken. When the poor person belongs to the downtrodden community and also suffering lost his sight vision in two eyes and the vision certificate issued by the Chairman, Regional Medial College, Government Rajaji Hospital, Madurai, informed the 2nd respondent that the petitioner was a blind and he fit for the job. But, even then, no appointment was made. The Government should take care of the physically handicapped persons life in a manner to safeguard their lives by expedite their proceedings of the appointment of the persons like the petitioner for upliftment of their lives. In this case, the 2nd respondent very well known that this petitioner was selected for the non-interview post under the reserve category on 24.09.2009 itself under the SC(G) Blind. But, even after that no steps have been

<https://hdservices.courts.gov.in/hdservices/> any man can visualised the situation, persons belongs to disabled person like the petitioner, who has lost his two eyes, but even then, he has passed his Post Graduate Course



and M.Phil Course and also passed the written test for the post of non-interview. But the 2nd respondent totally failed on their part, to shown their interest for uplifting of this petitioner's life, since he is total blind person living with the help of others, but the Government has failed to help this writ petitioner, who is a blind and lost his two eye sights. This Court very much regret of the inaction of the 2nd respondent TNPSC and kept the case for the past 8 years without any further progress.

20.The 2nd respondent himself has stated that based on the marks obtained by the writ petitioner in the written examination with reference to the rule of reservation of appointments, vacancy position, age, qualification, this writ petitioner was selected for the Non-interview post under reserved category only i.e. SC (G) Blind, but no appointment order was issued till date. Therefore, the writ petitioner has make out his case before this Court for the prayer sought for in this writ petition seeking direction to the 2nd respondent to appoint the petitioner for the recruitment (direct) posts including in Combined Subordinate Services Examination-I, 2008 (TNPSC (CSSE-I)) and accordingly the writ petition is liable to be allowed.

21.In the result:

(a) this writ petition is allowed;

(b) the 2nd respondent is directed to publish the result of the petitioner and send the selection list of the petitioner to the concerned Department for the appointment of the petitioner for the recruitment of (direct) posts including in Combined Subordinate Services Examination-I, 2008 (TNPSC (CSSE-I));

(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.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1.The Secretary,
Government of Tamilnadu,
Department of Personal,
Services, Chennai.



2.The Secretary,
Tamil Nadu Public Service Commission,
Commercial Tax Offices Building Annex,
No.1, Greams Road,
Chennai - 6.

3.The Revenue Divisional Officer,
Paramakudi,
Ramanathapuram District.

+1cc to Mr.T.LAJAPATHIROY,Advocate,SR.16489

+1cc to Mr.K.K.SENTHIL,Advocate,SR.18284

+1cc to M/S.Special Government Pleader,SR.18193

W.P. (MD) No.1632 of 2011
and

M.P. (MD) No.1 of 2011
24.03.2017

VSA

KK/JC/SAR 2/08.09.2017/9P-7C