

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.A.No.1150 of 2018
and C.M.P.Nos.9201 and 9202 of 2018

The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
VOC Nagar, Chennai-600 003. Appellant/Respondent

-vs-

M.Senthur Pandian Respondent/Writ Petition

Appeal filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P.No.25355 of 2013 dated 20.11.2014. Writ of Mandamus or any other appropriate Writ of Order or Direction in the nature of a Writ, directing the respondent to consider the claim of the petitioner for appointment in Combined Sub-Ordinate Service Examination-1 by accepting the degree qualification as satisfying the educational qualification and well within the cut of date and to consider and appoint the petitioner forthwith thereto.

For Appellant :: Mr.S.R.Rajagopal,
Addl.Advocate General
assisted by Mr.M.Loganathan

For Respondent :: Mr.L.Rajasekar

JUDGMENT

(Delivered by HULUVADI G.RAMESH, J.)

The respondent herein applied to the Tamil Nadu Public Service Commission, the appellant herein, for appointment by direct recruitment to the posts included in the Combined Subordinate Services Examination-I for the years 2011-12 and 2012-13. The Notification was issued in Notification No.19(A)/2012 dated 13.06.2012. Clause 3(B)(a) of the Notification speaks about the educational qualification, which states that the candidates should possess the qualification on the date of

Notification, ie., 13.06.2012. But the fact remained that even though the respondent wrote the qualifying examination for making application as per the Notification, the result was declared only on 27.06.2012, after the publication of Notification, but before the expiry of the last date for making application, ie., 13.07.2012.

2.They were permitted to write the written examination for the Combined Subordinate Services Examination-I in question, in which they scored high marks. However, by a subsequent decision, pursuant to the meeting held on 06.11.2013, the appellant rejected the application of the respondent on the ground that the result in respect of the qualifying examination in respect of the appellant, has been declared only after the date of Notification.

3.With the above background, the respondent filed a writ petition before this Court in W.P.No.25355 of 2013 along with three similarly situated persons. This Court, by order dated 20.11.2014, allowed the writ petitions with a direction to consider the claim of the respondent herein and the other similarly situated persons, for appointment in the Combined Subordinate Services Examination-I based upon their performance.

4.Challenging the order passed in W.P.No.25355 of 2013 dated 20.11.2014, the present appeal has been filed by the Tamil Nadu Public Service Commission.

5.The learned counsel for the appellant / Tamil Nadu Public Service Commission has submitted that the learned single Judge ought to have considered that during certificate verification, it was found that the respondent was not possessing the prescribed qualification for the post as on the date of Notification. Relying upon Rule 12(b)(iv) of the General Rules for Tamil Nadu State and Subordinate Service Rules, the learned counsel submitted that as on the date of Notification, the respondent should possess the requisite qualification. Since he was not having the requisite qualification as on the date of Notification, his case was rightly rejected by the appellant. He further submitted that the posts have been already filled up and hence there is no vacancy. Stating so, he prayed for allowing the writ appeal.

6.The learned counsel for the respondent has submitted that the learned single Judge has considered the matter in proper perspective and has passed the impugned order and hence the same does not require any interference in the hands of this Court.

7.Heard the learned counsel on either side and perused the materials available on record.

8.It is not the case of the respondent that he was having the requisite qualification as on the date of Notification. Admittedly, the respondent was not having the requisite qualification as on the date of Notification in question, ie., the result of the qualifying examination was not announced. When the fact remained that the respondent was not qualified to apply for the post as on the date of Notification, we have to ultimately come to the conclusion that the writ appeal has to be allowed, even though the qualification was acquired before the last date of making the application.

9.In the result, the impugned order passed by the learned single Judge is set aside and the writ appeal is allowed. No costs. Consequently the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VIII)

//True copy//

Sub Assistant Registrar

KM

To

The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
VOC Nagar, Chennai-600 003.

+1cc to Mr.M. Loganathan, Advocate SR.No.60173

+1cc to Mr.L.Rajasekar, Advocate SR.No.60422

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GMY (05/10/2018)