

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.1124 of 2014
and
M.P.No.3 of 2014

The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
VOC Nagar,
Chennai - 600 003. ... Appellant/2nd Respondent

versus

1.N.Saravanan ...1st Respondent/Petitioner

2.State Government of Tamil Nadu
Rep. by its Secretary,
Fort St. George, Chepauk,
Chennai - 600 009. 2nd Respondent/1st Respondent

PRAYER: Appeal filed against the order passed by this Court dated 18.12.2013 made in W.P.No.957 of 2013.

Prayer in W.P.No.957 of 2013:

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 2nd respondent to issue appointment order in pursuant to the proceedings of the 2nd respondent dt 30.11.2012 bearing No. 7027/PSDP2/2010 in furtherance of the Advertisement No. 14/2012 vide notification dt 27.4.2012 issued for direct recruitment to the post of i. Junior Assistant (Service Code No. 2600 2400) under Tamil Nadu Ministerial Service/Judicial Service ii. Typist (Code No.2200)/ Stenographers (Code No. 2300) Bill

Collector (Code No. 2500) Field Surveyor (Code No. 2800) and Drafts Man (Code No. 2900) included in Group IV Service to the petitioner.

For Appellant : Mr.M.Loganathan

For Respondents : Mr.C.Jagadish for R1
Mr.V.Anandhamoorthy,
Additional Government Pleader
for R2.

J U D G M E N T

(Order of the Court made by R.SUBRAMANIAN,J.)

The appellant challenges the order of the learned Single Judge made in W.P.No.957 of 2013 dated 18.12.2013, in and by which, the Writ Petition filed by the 1st respondent seeking issuance of a Writ of mandamus directing the appellant to issue an order of appointment pursuant to the proceedings of the appellant dated 30.11.2012 in furtherance to the advertisement issued by the appellant on 27.04.2012 for direct recruitment for the posts of Junior Assistant, Typist, Bill Collector, Field Surveyor and Draftsman in the Group-IV Services.

The facts that led to the filing of the Writ Petition are as follows:-

2. The appellant herein had issued an advertisement vide notification dated 27.04.2012 inviting applications for direct recruitment to various posts detailed above. The said notification prescribed a maximum age limit of 32 years for Most Backward Classes/ Denotified Communities, Backward Classes and Backward Classes (Muslims). The note appended to the age restrictions in the said notification read as follows:

"No maximum age limit for candidates belonging to SCs, SC(A)s, STs, MBCs/DCs, BCs. BCMs and Destitute Widows of all castes who possess a General Educational Qualification which is higher than the Minimum General Educational Qualification (i.e., who have passed P.U.C/ H.S.C/ Diploma/ Degree)"

3. The Educational Qualification required for the post as on 27.04.2012 i.e., the date of notification was SSLC or its equivalent with eligibility for admission to the Higher Secondary Courses of studies or to College Courses of studies. The 1st respondent had the minimum qualification of SSLC pass on the date of the advertisement. He had appeared for the Higher Secondary examination conducted during March 2012 and the results of the said examination were published on 22.05.2012.

4. Though, the 1st respondent was over aged i.e., above 32 years, the 1st respondent applied for the posts of Junior Assistant on 23.05.2012, since according to him, the maximum age limit would not apply to him inasmuch as he has obtained the higher qualification on 22.05.2012. The 1st respondent appeared for the written examination held on 07.07.2012 and has secured 219.5 marks and he was ranked at 3755 by the appellant. The appellant also issued proceedings dated 30.11.2012, requiring the 1st respondent to appear for counseling-cum-Certificate Verification on 21.12.2012. During the said counseling, the appellant rejected the claim of the 1st respondent for appointment on the ground that he had obtained the Higher Secondary qualification only after the date of notification viz., 27.04.2012.

5. According to the 1st respondent, the cutoff dated viz., 27.04.2012 would apply only for the minimum general qualification and not for the higher qualification. Inasmuch as there is no cutoff date that has been prescribed for higher qualification, it is enough if the higher qualification had been obtained on the last date for receiving applications. Claiming that the rejection of his candidature by the appellant is unjust, the 1st respondent came before this Court seeking the aforesaid reliefs in W.P.No.957 of 2013.

6. The appellant resisted the claim contending that the cutoff date that is fixed for the minimum general qualification would be the cutoff date for the higher qualification also.

7. The learned Single Judge who heard the Writ Petition rejected the contention of the appellant and relying upon the judgment of this Court in K.M.Rajkumar Vs. Director of School Education, Chennai reported in 2005 (4) CTC 657 concluded that in the absence of a cutoff date for acquiring higher

qualification, the cutoff date would be the last date for receipt of the application i.e., 28.05.2012. Inasmuch as the 1st respondent had acquired the higher qualification on 22.05.2012 and has made an application on 23.05.2012 after acquiring such higher qualification, the appellant was not right in rejecting the claim of the 1st respondent. On such conclusion, the learned Single Judge allowed the Writ Petition and issued a direction to the respondents in the Writ Petition viz., the appellant herein to consider the case of the petitioner to any one of the post in Group-IV services on the basis of his merit. There was also a further direction that such an exercise shall be done within a period of four (4) weeks from the date of receipt of a copy of the order. Aggrieved the Tamil Nadu Public Service Commission which was the 2nd respondent in the Writ Petition has come forward with this appeal.

8. We have heard Mr.M.Loganathan, learned counsel appearing for the appellant and Mr.C.Jagadish, learned counsel for the 1st respondent and Mr.V.Anandhamoorthy, learned Additional Government Pleader for the 2nd respondent.

9. Mr.M.Loganathan, learned counsel appearing for the appellant would contend that the cutoff date which is prescribed for the minimum educational qualification viz., 27.04.2012 would be the cutoff date for higher qualification contemplated in the notification. He would further contend that the learned Single Judge was not right in holding that there was no cutoff date fixed for acquiring the higher qualification.

10. Per contra Mr.C.Jagadish, learned counsel appearing for the 1st respondent would contend that the cutoff date that is prescribed in Clause 3(B)(i) of the advertisement issued by the appellant would only apply for the minimum qualification requirement and not for the higher qualification.

11. We are unable to agree with the contention of the learned counsel for the 1st respondent. The notification was made on 27.04.2012 and the last date for submission of application was 28.05.2012. Admittedly, the 1st respondent did not possess the higher qualification on 27.04.2012, the cutoff date for educational qualification prescribed in the notification dated 27.04.2012. He had obtained the higher qualification only a month thereafter viz., 22.05.2012. We are therefore unable to agree with the learned Single Judge that there was no cutoff date fixed for the higher qualification. Reliance was placed by the learned Single Judge on the judgment of this Court in

K.M.Rajkumar Vs. Director of School Education, Chennai reported in 2005 (4) CTC 657 may not be justified inasmuch as, on facts it was found that there was no cutoff date fixed in the notification issued in that case.

12. Once a notification prescribes a cutoff date for minimum qualification, the said cutoff date would also equally apply for higher qualification for the purposes of considering the age relaxation. Therefore, we are of the considered view that the cutoff date fixed for the minimum general qualification required for a particular post would equally apply for acquiring higher qualification also.

13. While declaring the law as aforesaid, we do not think that we should interfere with the judgment of the learned Single Judge in the case on hand for the following reasons: A similarly placed person viz., one Muthulakshmi, whose application under very same notification dated 27.04.2012 issued by the appellant was rejected on the very same ground, had filed a Writ Petition in W.P.No.4419 of 2013 in this Court and the said Writ Petition was allowed by this Court directing the appellant to grant appointment on the basis of merit and selection list for filling up the post in Group - IV services. It is not in dispute that the appellant had chosen to comply with the said order and had granted the benefit of the order to the said Muthulakshmi. This being so, we do not think that there is any justifiable reason for the appellant to refuse same benefit for the 1st respondent herein.

14. We therefore, do not interfere with the order of the learned Single Judge solely on the ground that the appellant cannot discriminate between two candidates who had applied under the same notification for the same post by appointing one person pursuant to the order of this Court and filing an appeal against the order passed in favour of another person.

15. We declare the law to the effect that the cutoff date prescribed for the minimum educational qualification under the notification issued by the appellant would also be the cutoff date for obtaining the higher qualification for the purpose of age relaxation under the very same notification. However, we are not interfering with the order of the learned Single Judge only because of the fact that the appellant viz., Tamil Nadu Public Service Commission had chosen not to challenge the order in W.P.No.4419 of 2013 filed by N.Muthulakshmi which relates to the

same notification and had extended the benefit of appointment to her while denying the same to the 1st respondent.

16. The Writ Appeal is disposed of as indicated above. The appellant and the 2nd respondent are directed to appoint the petitioner to any one of the Group -IV posts based on the selection list made pursuant to the advertisement dated 27.04.2012. Such exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order. There will be no order as to costs. Consequently, the connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

dsa

To

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

2.The Secretary,
State Government of Tamil Nadu,
Public Department,
Fort St. George, Chempauk,
Chennai - 600 009.

+1cc to Mr.C.Jagadish, Advocate Sr.44688
+1cc to Mr.M.Loganathan, Advocate Sr.44290

W.A.No.1124 of 2014

skv[co]
srg 7/8/2018