

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.11.2018

CORAM :

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No.27999 of 2011 &
M.P.No.1 of 2011

T.Chitradevi

.. Petitioner

Vs.

1. The District Collector,
Namakkal District,
Namakkal.
2. The Joint Secretary,
Tamil Nadu Public Service Commission,
Greens Road, Chennai - 600 006.
3. The Revenue Divisional Office,
Tiruchencode, Namakkal District. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent in Na.Ka.No.15873/2008 (C1); dated 15.09.2010 and the consequent order passed by the second respondent in Proc.No.7121/PSDA3/10; dated 16.03.2011 and quash the same and consequently to direct the second respondent to select and appoint the petitioner to the post included in Combined Subordinate Service Examination - I, 2007.

For Petitioner : Mr.G.Baskaran

For Respondents : Mr.Zakir Hussain

Government Advocate - R1 & R3

Mr.M.Devendran - R2

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O R D E R

This Writ Petition has been filed challenging the impugned Order dated 15.09.2010 of the first respondent and consequent Order of the second respondent dated 16.03.2011 and quash the same and consequently direct the second respondent to select and appoint the petitioner to the post included in Combined Subordinate Service Examination - I, 2007.

2. According to the petitioner, the petitioner married one Madheswaran and out of their wedlock they are having one son aged about 9 years. The husband of the petitioner met with an accident in June 1997 and he died on 17.06.1997. The petitioner did not have any sufficient income to pay even for the hospital charges for the treatment given to the petitioner's husband. After the demise of the petitioner's husband, the petitioner has to take care of her son and her aged mother-in-law. Admittedly, the petitioner was serving as an agent in the Life Insurance Corporation and collected policies out of her own efforts. The petitioner had completed her B.A. History Course in the year 2000 and she had qualified higher grade typewriting as well as computer course.

3. The second respondent, Tamilnadu Public Service Commission has invited applications for recruitment for the post of Group-II service and the petitioner applied for the same. The petitioner had passed in the written exam and she was selected for oral test which was conducted in March 2008. When the petitioner was anticipating selection and appointment in Group - II Service, the Village Administrative Officer has called the petitioner for enquiry to enquire into the genuineness of the destitute widow certificate issued in favour of the petitioner. The petitioner attended the enquiry and denied her second marriage or remarriage with any person. But without giving any opportunity to the petitioner and without conducting any proper enquiry, the third respondent issued show cause notice as to why her application for the recruitment to the posts including in CSSE and Executive Officer Grade III should not be rejected and her provisional selection should not be cancelled and why she should not be debarred permanently from appearing for any of the examinations/recruitment to be conducted by the second respondent in future.

4. On receipt of the said show cause notice, the petitioner had submitted her explanation. When that being the position, The petitioner had received the proceedings dated 15.09.2010 from the first respondent cancelling the destitute widow certificate issued in favour of the petitioner dated 01.04.2002 and on the basis of the Order dated 15.09.2010 of the first respondent, the second respondent has cancelled the provisional selection of the petitioner and debarred the petitioner permanently from appearing for any examination of the examination and recruitment to be conducted by the Tamil Nadu Public Service Commission in future.

5. According to the learned counsel for the petitioner, the first respondent passed the impugned Order without providing any opportunity to the petitioner. Therefore, the first respondent has violated the principles of natural justice.

Hence, the impugned Order passed by the first respondent is liable to be quashed.

6. The learned counsel for the first respondent would submit that the Revenue Divisional Officer has conducted enquiry with regard to the genuineness of the certificate issued by the third respondent and during the enquiry, the petitioner appeared and gave statement and the report was also submitted to the second respondent. The second respondent, inturn forwarded the said report to the first respondent. On the basis of the report of the Revenue Divisional Officer and the communication received from the second respondent, the impugned Order has been passed. Therefore, there is no illegality or infirmity in the Order passed by the first respondent.

7. The learned counsel for the second respondent would submit that the selection for the recruitment notification of the aforesaid post, issued by the second respondent in the year 2007 has already been completed. Therefore, the said relief cannot be granted.

8. Admittedly, the selection process was completed in the year 2007 and the writ petition filed in the year 2011. Hence, the relief sought in the writ petition with regard to the appointment of the petitioner to Group II Service cannot be granted. The other contention of the petitioner is that the first respondent has passed the impugned Order without giving an opportunity to the petitioner. There is no material placed before this court to show that an opportunity was given to the petitioner by furnishing report, before passing of the impugned Order. The learned counsel for the petitioner stoutly denied the particulars obtained from the Life Insurance Corporation and also denied her re-marriage with one Senthil Kumar. In such circumstances, this Court is of the opinion that an opportunity has to be given to the petitioner to putforth her defence. Hence, the impugned Order passed by the respondent, violates principles of natural justice and the same is liable to be quashed.

9. Accordingly, the impugned Order passed by the first respondent dated 15.09.2010 alone is quashed and the matter is remanded to the first respondent to consider afresh and to pass appropriate Order on merits, after providing sufficient opportunity to the petitioner, on merits. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

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Sub Assistant Registrar

vrc

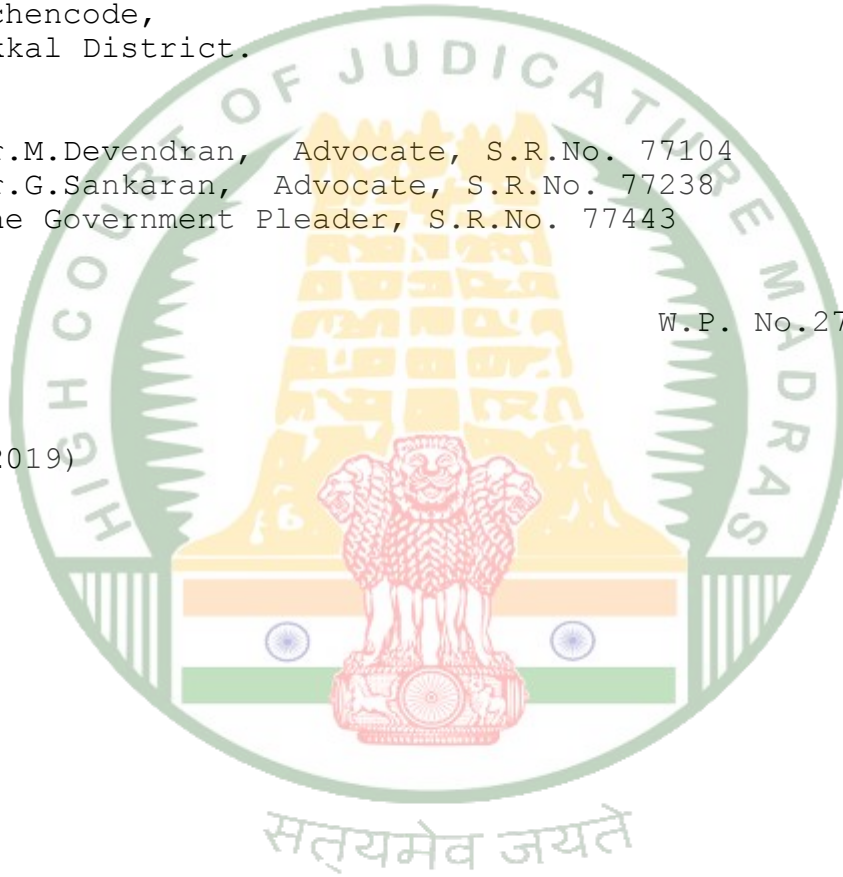
To

1. The District Collector,
Namakkal District,
Namakkal.
2. The Secretary,
Tamil Nadu Public Service Commission,
Greams Road,
Chennai - 600 006.
3. The Revinue Divisional Office,
Tiruchencode,
Namakkal District.

+2cc to Dr.M.Devendran, Advocate, S.R.No. 77104
+1cc to Mr.G.Sankaran, Advocate, S.R.No. 77238
+1cc to the Government Pleader, S.R.No. 77443

W.P. No.27999 of 2011

SR(CO)
GN(21/01/2019)



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