

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.04.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No.7865 of 2018
and
W.M.P.No. 9816 of 2018

A.Raja

...Petitioner

Vs

The Tamil Nadu Public Service Commission
Rep by its Secretary & Controller of Examination
Frazer Bridge Road, Chennai - 600 003.

... Respondent

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue of Writ of Mandamus, forbearing the respondent from appointing any candidates on the basis of the counseling/interview called for second and third of April by the respondent under the category of schedule caste Physically unable person for the posts included in combined Civil Services Examination-II (Interview Posts) (Group-II Services) for the year 2014-2016.

For Petitioner : Mr.P.Thiagarajan
For Respondent : Dr.M.Devendran

ORDER

The relief sought for in this writ petition is to forbear the respondent from appointing any candidate on the basis of the counseling/interview called for on 2nd and 3rd of April by the respondent under the category of scheduled caste differently abled for the posts included in Combined Civil Services Examination-II (Interview Posts) (Group-II Services) for the year 2014-2016.

2.The writ petitioner had submitted an application to participate in the selection process, pursuant to the Notification issued by the Tamil Nadu Public Service Commission

in notification No.7/2015, dated 30.04.2015 for direct recruitment for the post included in Combined Civil Services Examination-II (Interview Posts) (Group-II Services) for the year 2014-16.

3.The writ petitioner had successfully passed in the Preliminary and Main examinations and participated in the Certificate Verification also. The grievance of the writ petitioner is that, in spite of the completion of the written examination and certificate verification, he was not selected.

4.However, the learned counsel for the writ petitioner states that the writ petitioner was called for to participate in the counseling and on 29.03.2018, the writ petitioner received an SMS message from the Tamil Nadu Public Service Commission that no vacancies are available and his candidature cannot be considered for appointment to the post notified.

5.This apart, the SMS message informed that the writ petitioner need not appear for the counseling on 2nd April 2018 on account of the non-availability of the vacancies. It is further stated in the SMS that further information will be provided if the vacancies are available. Challenging the said situation, the writ petitioner is constrained to move the present writ petition.

6.The Tamil Nadu Public Service Commission informed the writ petitioner that he need not attend the counseling in view of the fact that the vacancies do not exist.

7.This being the factum of the case, this court is of an opinion that the present writ petition filed is premature in nature and in the event of availability of vacancies, the case of the writ petitioner will be considered. The TNPSC even informed the writ petitioner that in the event of availability of vacancies, his case will be considered. Such being the message sent by the respondent, this court is of the opinion that the writ petitioner ought to have waited for the further communication from the TNPSC. However, the present writ petition is moved hurriedly and the writ petitioner has not established any violation of legal right as of now.

8.Appointment can never be claimed as a matter of right. However, consideration of the application of an eligible candidate is a right. Undoubtedly the application of the writ petitioner had been considered and he was permitted to participate in the selection process and a communication was issued to the writ petitioner in this regard. Even after

selection, it is an administrative prerogative of an employer to cancel the selection process, even such cancellation of selection process cannot be questioned by the candidate, who has participated in the selection process. Therefore, the right will accrue only in the event of issuance of any appointment order. No writ can be entertained against the selection process in a routine manner. A writ proceedings can be entertained if the process of selection conducted in violation of the statutory provisions or if there is any illegality or irregularity or any corrupt activities found in the process of selection. Even in such cases, the person against whom such an allegation is raised has to be impleaded in the writ petition in his personal capacity and in the absence of any of those ground a writ petition cannot be entertained.

9. In all other circumstances, the selection process has to be completed in all respects by the recruiting agency and the competent authorities. Mere selection also will not confer any right on the candidates to claim appointment order.

10. This being the legal principle to be followed, this court is of an opinion that the writ petitioner, no doubt, has participated in the process of selection and successfully passed in the written examination and also his original certificates were verified. This apart he was issued with the call letter to participate in the counseling.

11. However, the authorities competent found that there was no vacancy available and immediately sent an SMS to the petitioner stating that the vacancies are not available. If vacancies exist, the case of the writ petitioner will be considered. This court do not find any fault with regard to the message sent to the candidate by the TNPSC and the information was provided in order to maintain the transparency in the selection process and a mere selection will not provide a cause of action for the writ petitioner to move the present writ petition.

12. Thus, the writ petition is not only premature and the writ petitioner has not established any legal right, so as to consider the relief as such sought for in this writ petition. The writ petitioner is a differently abled person and practising advocate in District Court, Dharmapuri. Therefore, he has to wait for final information to be provided by the TNPSC in respect of the availability of vacancies as per the SMS sent to the writ petitioner. This court wishes him to secure an appointment and for all prospects in his future.

13.Accordingly, this writ petition stands dismissed. However, there is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

mayaya

To

The Secretary & Controller of Examination
The Tamil Nadu Public Service Commission
Frazer Bridge Road, Chennai - 600 003.

+1cc to Mr.M.Devendran, Advocate, S.R.No.24734

+1cc to Mr.P.Thiagarajan, Advocate, S.R.No.25082

W.P. No.7865 of 2018
and
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GSP(16/04/2018)

सत्यमेव जयते

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