

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 05.06.2018

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN
AND
THE HONOURABLE MR. JUSTICE V.PARTHIBAN

Writ Petition No.12252 of 2018
and WMP.Nos.14309 & 14310 of 2018

M.Ramakrishnan

..... Petitioner

versus

1. The Secretary
Tamil Nadu Public Service Commission,
TNPSC Road, V.O.C.Nagar,
Park Town,
Chennai 600 003.
2. The Registrar General,
Madras High Court,
High Court Campus,
Madras 600 104.

..... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus calling for the impugned notification issued by the 1st respondent in Notification No.08/2018 Column No.2(A) Serial No.1, dated 09.04.2018 and quash the same consequently direct the respondents to permit the petitioner to write the Preliminary Examination to be held on 09.06.2018 for the post of Civil Judge, Post Code 2089.

For Petitioner : Mr. M.Saravana Kumar

For R-1 : Ms.C.N.G.Niraimathi
Standing Counsel for TNPSC

For R-2 : Mr.B.Vijay

ORDER

Order of the Court was made by V.BHARATHIDASAN, J.

The challenge in this writ petition is to the prescribed qualification fixing minimum and maximum age limit for practising Advocates/Pleaders and Assistant Public Prosecutors and fresh law graduates or the essential

qualifications prescribed for practising Advocates / Pleaders and Assistant Public Prosecutor and the fresh law graduates in the Notification No.08/2018 dated 09.04.2018 issued by the Tamil Nadu Public Service Commission inviting online application for direct recruitment to the post of Civil Judge in the Tamil Nadu State Judicial Service as per the provisions prescribed under the Tamil Nadu State Judicial Service (Cadre and Recruitment) Rules 2007 as amended.

2. The petitioner claims to be a practising Advocate, who was born on 30.03.1978. He got himself enrolled as an Advocate with the Erode Bar Council in the year 2003. He had completed the age of 40 as on 30.03.2018. The notification prescribes maximum age for practising Advocate as 40 years as on 01.07.2018, whereas, the notification was issued on 09.04.2018. According to the petitioner, since the cut off date for practising Advocates has been fixed as 01.07.2018, he has lost his opportunity to apply for the said post. It is his further case that the time schedule as prescribed in the judgement of the Apex Court in Malik Mazhar Sultan and another vs. U.P.Public Service Commission [2015(6)SCC 612] has not been followed. Further, according to the petitioner, no selection/recruitment had been conducted during the years 2015, 2016 and 2017 and if the same had been done, he would have had the opportunity of participating in the same and hence, the notification insofar as fixing maximum age limit with cut off date 01.07.2018 for practising Advocate is liable to be quashed as arbitrary.

3.The learned counsel appearing for the petitioner contended that the fixation of cut off date as 01.07.2018 is highly arbitrary, unreasonable and without any rationale. According to the learned counsel for the petitioner, when the notification has been issued on 09.04.2018, the authorities ought not to have fixed the cut off date as 01.07.2018 and in view of such arbitrary fixation of the cut off date, several eligible persons have been deprived of the opportunity of applying for the post. Apart from that, there is no rationale behind the fixation of age limit for fresh law graduate as 27 years. The rules framed by the Bar Council of India do not prescribe any age limit for admission to the Law Degree programme. When there is no age restriction for joining law degree courses, the respondents ought not to have fixed the maximum age limit for the fresh law graduates as 27 years, which is contrary to the Rules framed by the Bar Council of India.

4. This Court had earlier dealt with the aforesaid issue at length and decided the same in W.P.Nos.11770 of 2018 & etc., batch vide order dated 09.05.2018. In this regard, it would be apposite to extract paragraph 25 of the said order for easy reference:

"25. It has been consistently held by the Hon'ble Supreme Court that fixing a cut off date for determining the maximum or minimum age is the discretion of the employer and judicial review is not permissible unless the fixation of cut off date is so capricious or whimsical. As rightly pointed out by the learned senior counsel for the High Court, cut off date cannot be fixed in such a manner to avoid hardship to some persons. It is natural when a cut off date is fixed, some may get affected and that cannot make the cut of date per se arbitrary. The learned standing counsel, the respondent Commission has come out with a justifiable explanation that the cut off date has been fixed as per the Tamil Nadu Government Servants' (Condition of Service) Act 2016 which prescribe the cut off date as 1st July of the year in which the vacancy is notified. Section 20(4)(iii) of the Act reads as follows:-

"20. Qualifications:-

(4) No person shall be eligible for appointment to any service by direct recruitment unless he satisfies the Commission in cases where the appointment has to be made in consultation with it or the appointing authority, in other cases;

.....

(iii) that such a person satisfies the age prescribed in the special rules on the first July of the year in which the vacancy is notified; and."

Hence, it is clear that the cut off date has been fixed as per the Act which is applicable to the present recruitment process."

5. In view of the fact that the issue involved in this writ petition had already been decided by this Court, we do not find any merit in the writ petition and hence, the same deserves to be dismissed. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-

Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

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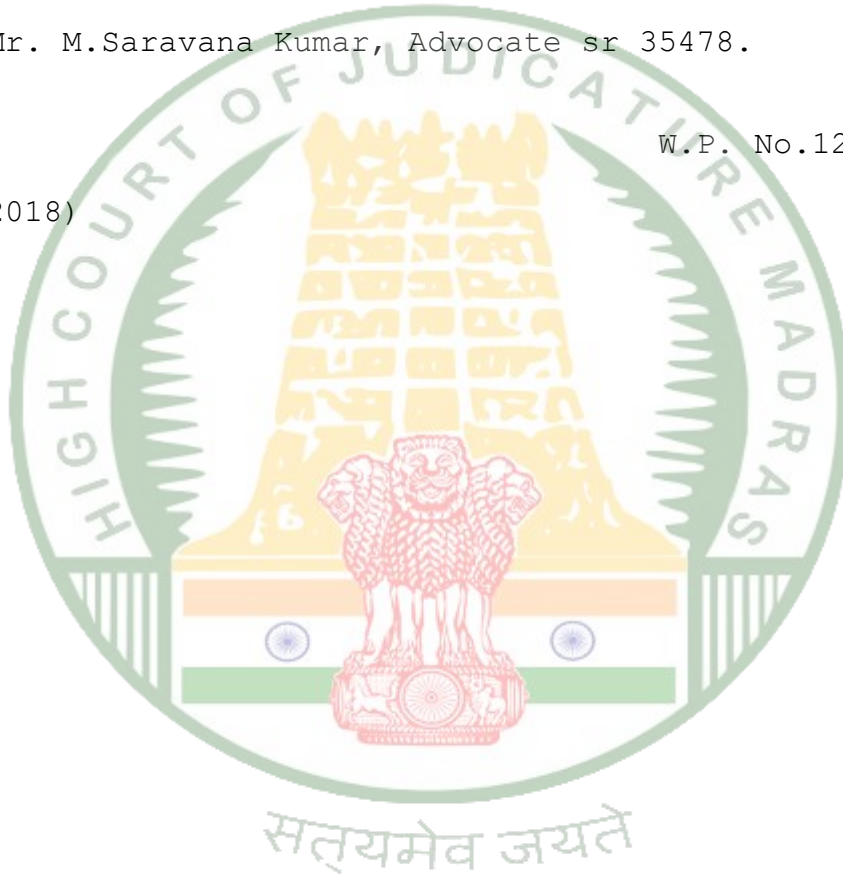
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+1 CC to Mr. M.Saravana Kumar, Advocate sr 35478.

W.P. No.12252 of 2018

SP(28/06/2018)



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