

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE SATRUGHANA PUJAHARI

W.P.No.28406 of 2017 and
W.M.P.Nos.30502 & 30503 of 2017

S.Ravichandran

.. Petitioner

Vs

Tamil Nadu Public Service Commission,
Rep by its Chairman,
Frazer Bridge Road,
V.O.C.Nagar, Park Town, Chennai-600003,
Tamil Nadu

... Respondent

Prayer:-

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondent commission to permit the petitioner to participate in the oral test and subsequent selection process for the post of Social case work expert (post code 1945) to be appointed pursuant to notification dated 04.01.2017 in Notification No.1 of 2017, accepting his Diploma in Criminology and Forensic Science as sufficient educational qualification.

For Petitioner : Mr.R.Murali

For Respondent : Mr.M.Loganathan,
Standing Counsel for TNPSC

ORDER

As it appears that the petitioner made an application for the post of Social case work expert advertised by the respondent indicating certain qualification and one of such qualification is Diploma in Criminology. The petitioner being post graduate diploma holder in Criminology and Forensic Science applied for the same, but at the time of certificate verification, since he was not exclusively having the Diploma in criminology though having PG Diploma in Criminology and Forensic Science, he was made disqualify to participate in the oral test. However, on the intervention of this Court in this writ petition, he has already appeared in the oral test and provisionally been selected. The grievance of the petitioner in this case is that the exclusion of him to give a call for oral test on the ground that he was not having any requisite qualification is illegal and arbitrary inasmuch as he is very

much having Post Graduate Diploma in Criminology no doubt, the same is also along with Forensic Science, therefore he has made the prayer to direct the respondent to accept the diploma of the petitioner as the requisite qualification.

2. Counter affidavit has been filed by the respondent / TNPSC wherein it is stated that as per the requisition of the Government they have made advertisement prescribing Diploma in Criminology and other subjects mentioned therein as the requisite qualification and the Equivalent Committee has never stated that those having diploma qualification in Criminology and Forensic Science are diploma holder in both the subjects and as such the petitioner having no such requisite qualification as advertised at the time of certificate verification, he was disqualified to participate in the oral test but for the intervention of this Court, he was allowed and admittedly provisionally selected for the post. Since he is having no prescribed qualification, the writ petition is devoid of merits and liable to be dismissed.

3. The learned counsel appearing for the petitioner during the course of hearing submits that no diploma is available in the State of Tamil Nadu exclusively on Criminology, all the diplomas are granted on Criminology and Forensic science. Therefore, since he is having additional subject of Forensic Science along with Criminology in his PG diploma, he could not have been denied to participate in the oral test for having no qualification as admittedly he is also having Criminology. In this regard, it is further submitted that though the Department is requiring Diploma in Criminology, but he has higher degree that is PG Diploma in Criminology and Forensic Science and as such it is not open to the TNPSC to deny him to participate in the selection process on the ground that he was having no qualification as advertised. In this regard, reliance has been placed on a decision of the Apex Court reported in the case of Parvaiz Ahmad Parry Vs. State of Jammu and Kashmir and Others reported in (2015) 17 SCC 709. The petitioner therein though was having MSC degree in forestry, he was made disqualify to appear in selection process for the post of Range Officer conducted by the J and K Public Service Commission prescribing B.Sc. degree in Forestry or equivalent qualification recognised by Indian Council of Agricultural Research. The petitioner therein had Forestry as one of the major subjects in B.Sc and a Master degree in Forestry and he had also passed National Eligibility Test in Forestry from ICAR and the Indian Council of Forest Research and Education (in short "ICFRE") issued Notification dated 15.01.1999 clarifying that the syllabus of State Forest Service (in short "SFS") Colleges was very much akin to that of Indira Gandhi National Forest Academy (in short "IGNFA"), therefore, considering the high standard of training and education in the SFS Colleges, ICFRE resolved that "SFS College diploma to be treated as equivalent to MSC (Forestry)". By letter dated 15.02.2007, the Forest

Research Institute (in short "FRI") informed the Department of Forest, Jammu and Kashmir Government, that the SFS Colleges' diploma be treated as equivalent to Msc(Forestry). In turn, on 12.03.2007, the Forest Department informed the same to the J.K.Public Service Commission (JKPSC) endorsing the opinion of FRI dated 15.02.2007. Taking note of the aforesaid facts especially the petitioner had P.G degree in Forestry and also Forestry as one of the subjects in B.Sc, held him to have required qualification to be eligible to participate in the examination. Placing heavy reliance on the same, it is submitted by the learned counsel appearing for the petitioner that this Court should hold TNPSC not calling for him after verification of the certificate, for the viva voce to be illegal and arbitrary and consequently declare him to be a fit candidate having requisite qualification and thereby, since he has already been selected, to empanel him for issuance of necessary appointment order.

4. The learned Standing Counsel for TNPSC submits that in the absence of any equivalent qualification certification by the Equivalence Committee, as the petitioner admittedly not having an exclusive diploma in Criminology though he is in possession of PG Diploma in Criminology and Forensic Science, action of the TNPSC cannot said to be illegal and arbitrary inasmuch as in the advertisement it was specifically prescribed the person must have Diploma in Criminology only.

5. It is not in dispute, unless the person possesses requisite qualification as prescribed in the advertisement or equivalent qualification on the date prescribed, he cannot participate in the selection process as he cannot be said to be qualified person to participate in the selection process. The aforesaid being the settled proportion of law and no equivalence certificate of the diploma of the petitioner being there indicating that the petitioner P.G.diploma in Criminology and Forensic Science be treated as equivalent diploma in either subject, it cannot be stated that such qualification of the petitioner as P.G. Diploma in both and he can be treated to have higher degree in either subject and as such he is having equivalent qualification. Reliance in this regard can be placed in a decision of the Apex Court reported in the case of Yogesh Kumar Vs. Government of National Capital Territory Delhi reported in AIR 2003 SC page 1241, wherein it has been held that recruitment into public service should be made strictly in terms of advertisement and recruitment Rules.

6. In the case of Parvaiz Ahmad Parry (cited supra), the Apex Court taking into consideration the petitioner therein was having Forestry as a subject in B.Sc, also passed NET in Forestry from ICAR, clarification of ICFRE clarifying that the syllabus of State Forest Service Colleges are akin to the syllabus of IGFNA and taking into consideration the high standard of training and education in SFS colleges, ICFRE resolved that the diploma of SFS Colleges be treated as

equivalent to M.Sc.(Forestry) which was communicated to the Department of Forest of the J&K Government by the Forest Research Institute and the J&K Government in Forest Department endorsed such opinion of FRI to J&K Public Service Commission, held the petitioner therein was having the requisite qualification to appear in the examination of the Forest Range Officer. But here in this case, the petitioner has not produced any material before the Tamil Nadu Public Service Commission or before this Court indicating the fact the equivalence committee has held that P.G. Diploma in Criminology and Forensic Science be treated as a P.G. Diploma in either subject. In such premises, the decision of the Apex Court in the case of Parvaiz Ahmad Parry (cited supra) is hardly of any assistance to the present petitioner.

7. Therefore, this Court is of the view that since the petitioner was not having the qualification as prescribed in the advertisement, rejection of the candidature at the time of certificate verification and not allowing him to participate in the oral test, cannot said to be illegal and improper. Consequently, the interim order of this Court pending disposal of the writ petition does not enure to the benefit of the writ petitioner and accordingly, this writ petition filed by the petitioner liable to be dismissed and accordingly stands dismissed.

8. Hence, hereinafter, there is no impediment on the part of the TNPSC to proceed with the selection process ignoring the petitioner who has been provisionally selected.

9. With the aforesaid order, this writ petition stands disposed of. However, in such circumstances, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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+1cc to Mr.Murali, Advocate SR.NO.43724

+1cc to Mr.M.Loganathan, Advocate SR.NO.43782

MG(CO)

sm:10.9.2018

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