



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2018

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE Mrs.JUSTICE R.THARANI

W.A.(MD).No.352 of 2018
against WP(MD)No.22340 of 2015

M.Vinu Seba

... Appellant/Petitioner

Vs.

The Tamil Nadu Public Service Commission,
represented by its Secretary,
Frazar Bridge Road, VOC Nagar, Park Town,
Chennai - 3.

... Respondent/Respondent

PRAYER: This appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 07.10.2016 and passed in W.P.(MD) No.22340 of 2015.

Prayer in WP(MD)No.22340/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue WRIT OF MANDAMUS directing the respondent to permit the petitioner to participate in the forthcoming counselling for the post of typist made in notification No.18/14 advertisement No.401/14 dated 14.10.2014.

For Appellant : Mr.T.Lajapathi Roy
For Respondent : Mr.D.Sivaraman

JUDGMENT

(Judgment of this Court was delivered by T.S.SIVAGNANAM, J.)

Heard Mr.T.Lajapathi Roy, learned counsel appearing for the appellant and Mr.D.Sivaraman, learned counsel appearing for the respondent.

2.The learned counsel appearing on either side submit that the issue involved in this is squarely covered by the judgment of the Division Bench of this Court in W.A.(MD) No.937 of 2017 dated 28.02.2018 and W.A.(MD) No.5 of 2017 etc., dated 10.04.2017. The operative portion of the judgment in W.A.(MD) No.937 of 2017 is as follows:



"2.The learned counsel appearing on either side would submit that the issue involved in this Writ Appeal is covered by the Judgment of this Court in **A.Solamalai Vs. Tamil Nadu Public Service Commission** [W.A(MD)No.5 of 2017, etc. batch, dated 10.04.2017]. Thus, following the said decision, the Writ Appeal is allowed and the order, dated 07.10.2016, made in W.P(MD)No.23204 of 2015, is set aside and the first respondent/ TNPSC is directed to consider the grant of appointment to the appellant in the post of Typist, as per her ranking, subject to the appellant being qualified in other respects, within a period of twelve weeks from the date of receipt of a copy of this Judgment. No costs. Consequently, connected Miscellaneous Petition is closed."

3.The learned counsel for the respondent submitted that one factual difference between the case of the appellant and the cases dealt with by the Division Bench in the above referred judgment is that the appellant was not party to the earlier proceedings and he did not have the benefit of an interim order permitting her to attend the counselling. Nevertheless, Tamil Nadu Public Service Commission allowed the appellant to attend the counselling on 17.10.2015 for the post of typist and the department, which had opted is mentioned as Revenue Unit, Tuticorin, Tamil Nadu Ministerial Service and one post was reserved. Therefore, the decisions in the above referred writ appeals would equally apply to the facts of the appellant.

4.In the result, following the above referred decisions, this appeal is allowed and the order passed in the writ petition is set aside and the first respondent is directed to issue order of appointment to the appellant for the post of typist as per the rank, within a period of 8 weeks from the date of receipt of a copy of this judgment. No costs.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

+ 1 CC TO Mr.D.SIVARAMAN, ADVOCATE IN SR No. 54220
+ 1 CC TO Mr.T.LAJAPATHI ROY, ADVOCATE IN SR No. 54137

ARUL
TE/SKN-RSK/SAR-4 : 20/03/2018 : 2P/3C