



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 14.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.3061 of 2018

and

WMP(MD)Nos.3209 to 3211 of 2018

Syed Ibrahim.

... Petitioner

Vs.

1.The Chairman,
Tamil Nadu Public Service Commission,
Chennai - 600 003.

2.The Secretary,
Tamil Nadu Public Service Commission,
Chennai - 600 003.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the Notification dated 04.01.2018 issued by the respondents, which was published in the Web Site by rejecting the petitioner Registration No.290205116, as not satisfied the eligibility condition as per the norms stipulated in the Notification and quash the same and direct the respondents to include the petitioner Registration No.290205116, in the Selection List for the interview going to be conducted for the post included in Combined Civil Services Examination - II (Interview Post) (Group II Services, 2014-15 and 2015-2016) and consequently direct the respondents to publish the results along with other candidates.

For Petitioner : Mr.R.Murugappan

For Respondents : Mr.K.K.Senthil

ORDER

The petitioner applied in response to the notification issued by the Tamil Nadu Public Service Commission for recruitment to the posts included in Combined Civil Services Examination - II (Interview Post) (Group II Services, 2014-15 and 2015-2016). The petitioner took part in the preliminary examination and passed the same. He also cleared the main examination successfully. When he was called for certificate verification, it was noticed that the petitioner's gender was wrongly mentioned. Therefore, the petitioner was not called for interview. The respondent Commission has also issued notification in which with the petitioner's



registration number has been mentioned as one of those applications which have been rejected for not satisfying the eligible conditions as per the norms stipulated in the recruitment notification. Aggrieved by the same, this writ petition has been filed.

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2.The learned counsel appearing for the petitioner contended that the mistake committed in the application is purely inadvertent. He also pointed out that another learned Judge of this Court sitting in the Principal Bench by order dated 06.02.2018 in WP.No.2031 of 2018 condoned the lapse in the matter of entering the date of birth and permitted the petitioner to take part in the interview.

3.The learned standing counsel appearing for the respondent commission opposed the prayer made in the writ petition. As rightly pointed by the learned standing counsel for the respondent commission, the decision relied on by the learned counsel for the petitioner is clearly distinguishable in facts. In the said case, the candidate concerned wrongly mentioned the date of birth. It was considered as a lapse that can be condoned. In the present case, the petitioner claimed to be a Female in the application form. Though every applicant is permitted to write the preliminary examination subject to satisfying the basic eligible norms only those who get the requisite cut off mark will be permitted to write main examination. The cut off mark for the males is different from what is prescribed for females.

4.He would further point out that it is quite probable that the petitioner did not score the cut off marks which a male should secure and still was allowed to write the main examination because, he satisfied the cut off marks for the female candidates. Therefore, the mistake committed by the petitioner puts him in a different category altogether. In this view of the matter, this Court is not in a position to follow the same approach adopted by another learned Judge of this Court in WP.No.2031 of 2018 dated 06.02.2018.

5.As rightly pointed out by the learned standing counsel for the respondent commission flood gates would be opened if a sympathetic approach is taken in this case. This Court can interfere with an administrative order only if it is seen to be incorrect. The order impugned in this writ petition is well founded. Admittedly, the writ petitioner though the male, had described himself as a female. The Hon'ble Supreme Court in the decision reported in AIR 2012 SC 1803 (Bedanga Talukdar v. Saifudullah Khan) has held as follows :

It is too well settled to need any further reiteration that all appointments to public office have to be made in conformity with Article 14 of the Constitution of India. In other words, there must be no arbitrariness resulting from any undue favour being shown to any candidate. Therefore, the selection



process has to be conducted strictly in accordance with the stipulated selection procedure. Consequently, when a particular schedule is mentioned in an advertisement, the same has to be scrupulously maintained. There cannot be any relaxation in the terms and conditions of the advertisement unless such a power is specifically reserved. Such a power could be reserved in the relevant Statutory Rules. Even if power of relaxation is provided in the rules, it must still be mentioned in the advertisement. In the absence of such power in the Rules, it could still be provided in the advertisement. However, the power of relaxation, if exercised has to be given due publicity. This would be necessary to ensure that those candidates who become eligible due to the relaxation, are afforded an equal opportunity to apply and compete. Relaxation of any condition in advertisement without due publication would be contrary to the mandate of quality contained in Articles 14 and 16 of the Constitution of India.

6. That was a case concerning a physically challenged candidate. In the advertisement it was mentioned that the disability certificate must be submitted either along with the application form or before appearing in preliminary examination. The candidate failed to comply with the said requirement. But, the High Court directed the selection authorities to consider the claim of the candidate on the basis of the Identity Card submitted by him after the selection process was over. The said decision of the High Court was reversed by the Hon'ble Supreme Court and the observations set out above were made.

7. This Court has no option but to dismiss the writ petition. Accordingly, it stands dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

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Chennai - 600 003.

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Chennai - 600 003.

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