



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:15.11.2018

CORAM:
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

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W.P. (MD) No.22841 of 2018
and
W.M.P (MD) No.20713 of 2018

G.Elangovan

... Petitioner

vs.

1. The Member Secretary,
Tamil Nadu Public Service Commission,
TNPSC Salai, VOC Nagar,
Park town, Chennai-3.

2. The Controller of Examination,
Tamil Nadu Public Service Commission,
TNPSC Salai, VOC Nagar,
Park town, Chennai-3.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Mandamus, directing the respondents 1 and 2 to consider the disability certificate issued by the competent authority on 02.04.2018 to the petitioner (Reg No.100214219) for Group IV recruitment under notification No.23/2017 dated 14.11.2017 issued by the first respondent based on the representation dated 22.09.2018 preferred by the petitioner.

For Petitioner : Mr.V.Rajan

For Respondents : Mr.K.K.Senthil
Standing Counsel

ORDER

Heard the learned counsel appearing for the petitioner and the learned Standing counsel appearing for the respondents.

2.At the time of filing the application, the petitioner has not disclosed his disability while the application was invited under Notification No.23/2017 dated 14.11.2017. Thereafter, the petitioner has obtained disability certificate from the competent authority on 02.04.2018 and then he had given a representation to the Tamil Nadu Public Service Commission that his candidature should be considered under the disability quota.

3.It is now well settled by the Hon'ble Supreme Court in [https://hcservices.ecourts.gov.in/hcservices/Bedanga Talukdar](https://hcservices.ecourts.gov.in/hcservices/Bedanga%20Talukdar) Vs. Saifudaulah Khan and others reported in (2011) 12 SCC 85 that strict adherence to the stipulated selection



process has to be followed and there cannot be change in the procedure after notification. This mandate not only applies to the recruiting agency, but also to the person who apply for that.

4. Here is a case, where the petitioner had not disclosed disability certificate while applying, his candidature has been considered under general category and process has commenced. Thereafter, he has obtained disability certificate. It is not the case of the writ petitioner that the disability has caused to him subsequent to the application. In fact even according to the petitioner, 40% blindness is ever since 2003.

5. In such circumstances, we cannot now request the recruiting agency to consider the candidature of the petitioner herein under disability quota. The facts of the case in Bedanga Talukdar's case cited supra and the facts of the case are almost similar. In fact, in that case the petitioner who applied, declared himself as a disabled person, but not furnished the certificate. Whereas in this case at the time of applying, he has not even declared him as a disabled person. The Hon'ble Supreme Court while considering the case of this nature has observed as under:-

29. We have considered the entire matter in detail. In our opinion, 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. 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 equality contained in Articles 14 and 16 of the Constitution of India.

6. Therefore, after the commencement of selection process, the Court cannot relax the condition of the selection process to accommodate the person, who was not diligent to furnish the correct particulars in his application and seeks benefit of certain social welfare measure given to the persons with disabled. Any such tinkering of the procedure, will cause wider ramification and



therefore, neither on the score of equality or an equity the petitioner herein deserves any consideration.

7.Hence, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar(CS-III)

+1 cc to Mr.K.K.Senthil,Advocate,SR.No.95874

cp

SS/PM/SAR 3/17.12.2018/3P/2C

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