



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) Nos.20394 and 20474 of 2017
W.M.P. (MD). Nos.16660 to 16662, 16743,
16744 of 2017 and 523 of 2018

W.P. (MD) No.20394 of 2017

P.Nethaji Subash Chandra Bose

... Petitioner

Vs.

1. Tamil Nadu Public Service Commission,
Represented by the Controller of Examinations,
Commercial Tax Offices Building Annex,
No.1, Greams Road, Chennai - 6.

2. Tamil Nadu Public Service Commission,
Represented by the Secretary,
Commercial Tax Offices Building Annex,
No.1, Greams Road, Chennai -6.

... Respondents

PRAYER IN W.P.(MD).No.20394 of 2017: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order dated 26.10.2017 on the file of the Respondent No.1 and quash the same as illegal to the extent of rejecting the application of the petitioner and consequently to direct the Respondents to select and appoint the petitioner (bearing Reg.No.100007003) for recruitment to the post of Assistant Jailor in Prison Department in the Tamil Nadu Jail Subordinate Service (1996-2010) within the time stipulated by this Court.

For petitioner
For respondents

: Mr.T.Lajapathi Roy
: Mr.D.Sivaraman
Standing Counsel

W.P. (MD) No.20474 of 2017

M.Maruthupandian
<https://hcservices.ecourts.gov.in/hcservices/>

.. Petitioner

Vs.



The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
Chennai - 600 003.

.. Respondent

PRAYER IN W.P.(MD).No.20474 of 2017: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records pertaining to the impugned No.Nil, dated 26.10.2017 passed by the respondent in respect of the petitioner and quash the same as illegal.

For petitioner
For respondent

: Mr.C.Arul Vadivel Alias Sekar
: Mr.D.Sivaraman
Standing Counsel

COMMON ORDER

Heard the learned Counsel on either side.

2.The petitioners in both the writ petitions are working as Jail Warden Grade-II.

3.Tamil Nadu Public Service Commission conducted a recruitment for filling up of the post of Assistant Jailor. Notification of this effect was issued on 09.03.2016. The petitioners as in-service candidates were eligible to participate in the said recruitment process. 10% reservation has been provided for such in-service candidates. As per the notification, the application will have to be submitted online. The writ petitioners submitted their applications. They were allotted registration numbers. They were issued with Hall Tickets. They wrote the written examination on 24.07.2016. They were successful. Thereafter, they have been called for certificate verification. The writ petitioners had produced all the relevant documents which includes 'No Objection Certificate' issued by the Superintendent of Police, Central Prison, Madurai.

4.At this stage, Tamil Nadu Public Service Commission published the list of candidates who were found to be successful in the written test. The said notification was published on 26.10.2017. The said notification contained the list of names who were eligible to participate in the oral test. But the writ petitioners were declared as not eligible to participate in the oral test as their applications were rejected for not satisfying the eligibility conditions as per the norms stipulated in the

<https://www.tnpsc.gov.in/>

5.Aggrieved by the same, the writ petitioners herein moved



this Court. This Court permitted the writ petitioners to take part in the oral test but directed that the result would be withheld till the matter was taken up for final hearing.

6. The learned Standing Counsel appearing for the Tamil Nadu Public Service Commission strongly contended that the writ petitioners have indulged in suppression of material facts. According to the Standing Counsel, both the writ petitioners were departmentally dealt with and have been visited with penalties but while filling up the application forms both the writ petitioners have given the answer 'no' to the question whether the departmental/disciplinary action were initiated. The learned Standing Counsel drew the attention of this Court to Clause 6(I) which mandates that correct and true information regarding criminal or any disciplinary proceedings initiated or finalised ought to be furnished to the Commission at the time of application. Clause 14(g) was also referred to. The said Clause states that if any of the claims are found to be incorrect or false it will lead to rejection/debarment. The learned Standing Counsel wants to sustain the impugned order in view of the act of suppression in which the writ petitioners indulged in.

7. The learned Counsel appearing for the writ petitioners strongly disputed the allegation of suppression. According to the learned Counsel, the entire recruitment process will have to be viewed as one integral scheme. It is not as if the writ petitioners sought to derive any benefit by giving erroneous answer while filling up the application forms. The learned Standing Counsel for the Tamil Nadu Public Service Commission would fairly admit that even if the applicants had mentioned that they have been visited with penalties in departmental proceedings, still, they would not be disqualified on that count. Therefore, this Court will have to approach the issue from a different perspective. The question to be posed is whether the writ petitioners derived any unfair advantage by making an erroneous declaration while filling up the application form.

8. The writ petitioners had furnished the "No Objection Certificate" issued by the employer. In the said No Objection Certificate the details regarding the punishment imposed on the writ petitioners in the departmental action have been mentioned. It is only from the reading of the No Objection Certificate issued by the Head of Office that the Tamil Nadu Public Service Commission came to know about the fact that the writ petitioners had suffered departmental penalties. The information brochure will have to be read as a single piece of document. Clause 11 of the recruitment notification talks about No Objection Certificate and information to the employer. The said Clause is referred to of the 'Instructions to the candidates'.

<https://hccs.courts.mv.in/user/lics/>

9. In the considered view of this Court, the requirement to



furnish No Objection Certificate issued by the employer cannot be divorced from the application form to be filled in by the applicants. Admittedly the writ petitioners have obtained proper No Objection Certificates from the employer and the No Objection Certificate does contain all the relevant details. In this view of the matter it can be seen that the writ petitioners have not really indulged in any suppression of materials of facts though the answers given by the writ petitioners while filling up the form is erroneous. A holistic approach must be adopted in such matters. The question to be posed is taking things as a whole has there been a suppression. In view of the requirement to furnish No Objection Certificate that contains the relevant particulars, this Court comes to the conclusion that there is no real suppression.

10. The learned counsel for the writ petitioners would submit that at best this can amount to an inadvertent error on the part of the applicants and nothing more than that. Of Course D.Sivaraman, learned Standing Counsel for the said Commission would say that it is a deliberate act on their part. In fact the writ petitioner in WP(MD).No.20474 of 2017 submitted a letter to the Commission stating that he had omitted to refer to the punishment suffered by him. This letter was enclosed along with the 'No Objection Certificate'.

11. When the matter was taken up for final hearing, an impleading Petition was sought to be filed in W.P.(MD).No.20474 of 2017. The impleading petitioner brought to the notice of this Court that the writ petitioner Maruthupandian is facing a criminal case for offences under Section 147, 302 read with 149 of IPC. It is seen that a private complaint has been filed by the Revenue Divisional Officer, Cuddalore and that the writ petitioner is figuring as A7 in the said case. There is nothing on record to show that the writ petitioner is having knowledge of the lodging of the said private complaint. In view of the order to be passed in these proceedings, there is no need to implead him as the information furnished by him has already reached the knowledge of the Commission. Therefore the said impleading petition stands dismissed.

12. In view of the forgoing the orders impugned in the writ petition stand quashed insofar as the petitioners are concerned. The Commission is directed to publish the result of the oral test. It is of course open to the respondent Commission to assess the suitability of the candidature of the writ petitioners and take a decision thereon. The entire exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

13. These Writ Petitions stand allowed accordingly. No



costs. Consequently the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(Crl side)

/True Copy/

Sub Assistant Registrar

- + 1 cc TO Mr.N.Tamil Mani, Advocate in SR No. 43862
- + 1 cc TO Mr.D.Sivaraman , Advocate in SR No. 43829
- + 1 cc TO Mr.C.Arul vadivel @ Sekar , Advocate in SR No. 43501

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AE/RSK/SAR1/02.05.2018/5P/4C

COMMON ORDER MADE IN
W.P. (MD) Nos.20394 and 20474 of 2017
23.01.2018