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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 17.07.2019

Delivered on : 25.07.2019

Coram

The Hon'ble Mr.Justice V.PARTHIBAN

W.P.No.2476 of 2019
and
W.M.P.No.2758 of 2019

A.S.Divya Varshini

.... Petitioner

vs.

1. Member Secretary,
Tamil Nadu Uniformed Services
Recruitment Board,
Egmore, Chennai - 8.
2. Inspector General of Police,
(Technical Services),
Dr.Radhakrishnan Salai,
Mylapore, Chennai - 4.
3. The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai - 04.

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records of the first respondent in connection with the provisional selection list for appointment to the post of Sub-Inspector of Police (Technical) 2018 published on 14.12.2018 and quash the same insofar as the non-selection of the petitioner to the post of Sub-Inspector of Police (Technical) under Open Quota and direct the first respondent to award 3 marks for the additional educational qualification acquired by the petitioner in B.Tech & M.Tech Integrated course, and consequently select and appoint the petitioner as Sub-Inspector of Police (Technical) 2018 and grant her all consequential service and monetary benefits.



For Petitioner

.. Mr.K.Venkatramani, Sr.Counsel for
Mr.M.Muthappan

For Respondents

.. Mr.V.Kadhirvelu, Spl.G.P.for R1

Mr.J.Pothiraj, Spl.G.P.
for R2 and R3

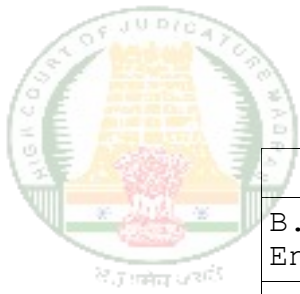
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ORDER

The first respondent issued Notification No.1 of 2018, dated 11.07.2018, calling for the eligible candidates from open market for appointment to the post of Sub-Inspector of Police (Technical), 2018. The petitioner has originally obtained Masters Degree in Engineering (M.Tech) (Communication Systems), studied in Sastra University. The petitioner has also obtained Bachelors Degree in (B.Tech), (Electronics and Communication Engineering). She had secured First Class with Distinction in the examination held in May, 2017. The Masters Degree obtained by the petitioner is recognized by All India Council for Technical Education (AICTE) and University Grants Commission (UGC). The Sastra University, from where she obtained degree, both Bachelors and Masters, is a deemed University, recognized by UGC. The Masters Degree is an integrated course to be undergone by the petitioner for a period of 5 years. The petitioner belongs to Other Communities (OC).

2.As the petitioner is fully qualified to be considered for appointment, in response to the advertisement dated 11.07.2018, she applied for consideration of her candidature. She was directed to appear for the written examination on 30.09.2018 and in the written examination, she had come out successfully by securing 48 marks out of 80 marks and thus, became eligible for the next stage of selection. Thereafter, the petitioner was directed to appear for certificate verification on 19.11.2018 and the Sub-Committee, which verified the certificates, had also gone through the educational qualifications of the petitioner and satisfied with the Masters Degree obtained by the petitioner. On the same day, the petitioner was subjected to Physical Measurement Test and the petitioner satisfied the requirement and therefore became eligible for the final stage of selection.

3.According to the Notification, additional marks are given for additional qualification of the candidates concerned. The extra marks ear-marked for additional qualification is as per Clause 21 of the Notification, which is tabulated hereunder;



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Educational Qualification	Marks
B.E.Degree in Electronics and Communication Engineering - 4 years	2
BCA/B.Sc.Degree in Computer Science or B.Sc.IT 3 years	2
B.E. Or B.Tech Degree in Computer Science or I.T.-4 years	3
Post Graduate Diploma in Computer Application - 1 year	1
M.E. or M.Tech degree in communication system - 2 years	1
M.E. Or M.Tech degree in Computer Science - 2 years	2
MCA - 3 years	2

4.As per Clause 10 of the Notification, the following educational qualification is prescribed for appointment:

"1.Candidate should possess minimum a second class diploma in Electronics and Communication Engineering awarded by the State Board of Technical Education, Tamil Nadu;

or

A Degree (B.E/B.Tech) in Electronics and Communication Engineering by All India Council for Technical Education."

The petitioner, being a Bachelors degree holder in Electronics and Communication Engineering and Masters Degree, M.Tech in Communication Systems, is therefore fully qualified for appointment as prescribed above. According to the petitioner, she is also eligible for grant of additional marks as envisaged in Clause 21 of the Notification for her additional qualification, viz., M.Tech. Further according to her, she was also eligible to be granted additional marks for her participation in Scouts and Guides and she had secured Rajaya Purashkar Award.

5.While matters stood thus, the petitioner, after certificate verification, was directed to appear for Viva-Voce on 06.12.2018. The petitioner answered all the questions in the interview and she was granted 6.40 marks out of 10 marks. When the results were published on 14.12.2018, the petitioner found that her name did not appear in the select list under OC Category. Immediately, the petitioner applied under Right to Information Act, seeking information as to the marks obtained by



her in the selection. A reply was given to her query stating that she was awarded 48 marks in the written test and 6.40 marks in Viva Voce and totally secured 54.40 marks. According to the final select list, the cut off marks for OC Category(women) was 56.20 marks. In view of the same, the petitioner became ineligible for appointment to the post of Sub-Inspector of Police (Technical).

6. According to the petitioner, she has not been awarded any additional marks for the qualification secured by her, viz., B.Tech/ M.Tech and if only the Committee had awarded additional marks in terms of Clause 21 of the Notification, viz., two marks for her B.Tech qualification, she would have ultimately got 56.40 marks and in which event, she would have been selected for the subject appointment, as the cut off marks for OC Category (women) was only 56.20. The petitioner understood that the additional marks probably has not been granted to her in view of the integrated course studied by her in Sastra University, i.e., she has studied for a period of 3½ years and earned the Bachelors Degree in Electronics and Communication Engineering and 1½ years and secured her M.Tech in Communication Systems. Probably, the Sub-Committee, which verified the certificates, was not satisfied with the integrated course studied by the petitioner and therefore, the Committee has not awarded any additional marks, as envisaged in Clause 21 of the Notification. In these circumstances, the petitioner is before this Court challenging the select list dated 14.12.2018, insofar as her non-selection is concerned.

7. Notice was ordered in the writ petition and Mr.V.Kadhirvelu, the learned Special Government Pleader entered appearance and counter affidavit has been filed.

8. Sri.K.Venkatramani, the learned Senior counsel appearing for the petitioner would stoutly contend that the non-award of additional marks, as envisaged in Clause 21 of the Notification dated 11.07.2018, is unreasonable and unjust for the simple reason that the degree obtained by the petitioner both B.Tech as well as M.Tech has been recognized by both AICTE and UGC. The Sastra University is deemed to be an University and recognized by UGC, from which University, the petitioner has obtained her degree. Therefore, the petitioner ought to have been granted additional two marks, in which event the petitioner would have crossed the cut off mark prescribed in her category i.e., OC (women). Unfortunately, there appears to be non-application of mind on the part of the first respondent in not treating the degree obtained by her either as B.Tech or M.Tech, which unfortunately resulted in negation of right of the petitioner to be appointed as Sub-Inspector of Police (Technical), despite her eligibility, qualification and merit.



9. Per contra, Mr.V.Kadhirvelu, the learned Special Government Pleader would submit that the integrated course studied by the petitioner was not considered to be equivalent to B.Tech Degree as per the instructions issued from time to time by the UGC. According to the learned Special Government Pleader, UGC has issued instructions on 19.02.2019, stating that equivalence degrees are not determined by the UGC and such equivalence is decided by the University concerned, and in case of employment, promotion, etc., equivalence is decided by the Employer of the Organization. Further, the University Grants Commission has given certain guiding principles in this regard. The learned Special Government Pleader would submit that the employer has decided not to allot any additional marks for the degree obtained by the petitioner i.e., B.Tech.

10. The learned Special Government Pleader would also further refer to paragraph No.17 of the counter affidavit stating that the degree qualification obtained by the petitioner has to be recognized in the light of the G.O.Ms.No.873, Home (Pol.9) Department, dated 02.12.2016, and in terms of the said Government Order, the first respondent has resolved to consider the 5 years integrated course studied by the petitioner as single degree of M.Tech and accordingly awarded one extra mark for the additional qualification. According to the learned Special Government Pleader, if that one mark is added, the petitioner's total score would be only 55.4 and still it is less than the cut off mark of 56.20 in the category in which the petitioner belongs. Therefore, the petitioner is not entitled to the relief as prayed for in the writ petition.

11. At this, the learned Senior counsel Shri.K.Venkatramani would submit that the Government Order which is relied on by the respondents does not say that the degree obtained by the petitioner ought to be treated as P.G. Degree and therefore, her entitlement is only one mark. He would submit that this Court may consider that the degree obtained by the petitioner may be construed to be a Bachelors Degree in B.Tech (Electronics and Communication Engineering) by taking all 5 years put together, in which event, the petitioner ought to have been granted two marks. In that case, the petitioner's total marks would be 56.40 and her claim would squarely fall within the cut off marks for OC Category (women).

12. Considered the submissions of the learned Senior counsel appearing for the petitioner and also the learned Special Government Pleader appearing for the respondents.

13. Undoubtedly, the degree obtained by the petitioner, viz., B.Tech (Electronics and Communication Engineering) and M.Tech (Communication Systems) is a recognized degree both by AICTE and



UGC. The institution in which the petitioner studied for securing the degree, namely Sastra University is also deemed to be an University, recognized by UGC. In the said circumstances, the degree may be an integrated course, yet it has to have its own value, atleast for the purpose of grant of additional marks to the petitioner herein. Despite the integrated nature of the course, it cannot be denied that the petitioner has gone through the course for 5 full years and obtained her degree and such degree, infact, is a value addition to her qualification and such higher qualification, infact, has to be appreciated by the respondents, since such qualified persons are required to be appointed in public service, in the larger public interest.

14.The arguments advanced on behalf of the respondents that the degree obtained by the petitioner is construed as one of M.Tech and hence, the petitioner was granted one mark, cannot be countenanced both on facts and in law for the reason that if the degree can be construed as M.Tech, more so, it can be construed as B.Tech degree, since, the normal course for B.Tech is only 4 years and the petitioner had done the course for 5 years. In such view of the matter, the Authorities ought to have harmoniously interpreted the Government Order even if such Government Order has any bearing on the issue and awarded two marks to the petitioner to enable her to cross the cut off mark prescribed for OC category (women). When the degree obtained by the petitioner is construed to be a Masters Degree, nothing precludes the Authorities concerned from considering it as Bachelors Degree, when additional advantage enures to the petitioner's credit. The respondents need not give a constricted interpretation of the degree obtained by the petitioner by construing the same as M.Tech and grant one mark. In any event, the integrated course studied by the petitioner is a recognized course and the petitioner has gone through the course for full 5 years and therefore, this Court is of the view that she is entitled to be granted additional two marks instead of one mark, as stated in the counter affidavit filed on behalf of the respondents.

15.After all the aim of the recruiting body and the appointing authority is to select the best and suitable candidates for appointment of Sub Inspector of Police in Technical line and in such endeavor, the Authorities must always look for better qualified persons and make them eligible if they have additional qualifications and not look at their additional qualification with a constricted sense of approach and grant her less marks than what she deserves. It is an irony that when a degree can be construed and equated with M.Tech degree, nothing precludes the Authorities from considering the same as a Bachelors Degree in order to give additional benefit to the petitioner. In the said circumstances, the grant of one mark to



the petitioner by considering her degree as M.Tech is rather strange and the same is unjust, unreasonable, arbitrary and cannot stand the test of judicial scrutiny.

16. For the above said reasons, this Court has no hesitation in allowing the writ petition. Accordingly, the writ petition stands allowed and the impugned select list dated 14.12.2018 is hereby quashed only insofar as the non-selection of the petitioner as Sub-Inspector of Police (Technical) concerned. The first respondent is directed to grant two marks to the petitioner, considering her B.Tech degree as equivalent B.E Degree in Electronic and Communication Engineering (4 years), in terms of Clause 21 of the Notification, dated 11.07.2018. On such additional two marks being granted, the respondents are directed to grant appointment to the petitioner as Sub Inspector of Police (Technical), if the petitioner is otherwise eligible for such appointment and grant her all other attendant and consequential benefits. The respondents are directed to pass consequential order in compliance with the directions given by this Court within a period of four weeks from the date of receipt of copy of this order. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

mrm/msk
To

Sub Assistant Registrar

1. The Secretary,
P & AR Department,
Secretariat, Chennai-600 009
2. The Secretary,
The Tamil nadu Public Service Commission,
TNPSC Road, V.O.C.Street,
Park Town, Chennai-600 003
3. The Controller of Examinations,
Tamil Nadu Public Service Commission,
TNPSC Road, V.O.C.Street,
Park Town, Chennai-600 003

+1 cc to Mr.M.Muthappan, Advocate, S.R.No.64331

W.P.No.2476 of 2019

MP(CO)
SSM(10/09/2019)