



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.06.2019

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THE HONOURABLE Mr. JUSTICE V.PARTHIBAN

W.P.No.3519 of 2018 and W.P.No.32939 of 2017
and
W.M.P.No.4297 of 2018,
W.M.P.Nos.36311 & 36312 of 2017

S.Sivadevi ... Petitioner in both WPs

Vs.

1.Tamilnadu Public Service Commission,
Rep. By its Secretary,
Frazer Bridge Road,
VOC Nagar, Park Town,
Chennai 600 003.

2.The Secretary & Controller of Examinations (i/c),
Tamilnadu Public Service Commission,
Frazer Bridge Road, VOC Nagar,
Park Town, Chennai - 600 003.

... Respondents in both WPs

Prayer in WP.No.3519/2018: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents herein to publish the petitioner's result in the Written Test held on 20.05.2017 and in the Oral Test held on 19.12.2017 with Register No.010001238 for the post of "Hostel Superintendent Cum Physical Training Officer" under the Tamilnadu Employment and Training Subordinate Services and thereby direct the respondents herein to select and appoint the petitioner as "Hostel Superintendent Cum Physical Training Officer" under the Tamilnadu Employment and Training Subordinate Services in the event of the petitioner is successful and falling within the zone of consideration.

Prayer in WP.No.32939/2017: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Declaration declaring the action of the respondents herein in rejecting the candidature of the petitioner with Register No.010001238 for the post of "Hostel Superintendent Cum Physical Training Officer" under the Tamilnadu Employment and Training Subordinate Services as not satisfying the Eligibility conditions vide the Notification published in the official website of the respondents dated 05.12.2017 as Null and Void and



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thereby direct the respondents herein to select and appoint the petitioner as "Hostel Superintendent Cum Physical Training Officer" under the Tamilnadu Employment and Training Subordinate Services in the event of the petitioner is successful in the oral test and falling within the zone of consideration.

For Petitioner : Mr.A.R.Suresh

For RR 1 & 2 : Ms.C.N.G.Niraimathi

COMMON ORDER

The petitioner herein has passed SSLC in 1993 and higher Secondary Course in March 1996. In 1997, the petitioner has joined B.Sc. Chemistry in Madras University and she discontinued the course. However, subsequently in October 2002, the petitioner joined one year certificate course in Physical Education and completed the same in May 2003 in Karnataka Secondary Education Examination Board. According to the petitioner, the certificate was evaluated to be equal by the Director of School Education Tamil Nadu. Thereafter, the petitioner completed B.Sc. Psychology in Madras University in May 2005. The petitioner had also worked as Physical Education Teacher on part time basis.

2.On 08.02.2017 the 1st respondent issued Notification No.02/2017 calling for applications for direct recruitment of 27 posts of Hostel Superintendent Cum Physical Training Officer under the Tamil Nadu Employment and Training Subordinate Services. The examination was conducted as part of the selection process by the 1st respondent on 20.05.2017. The petitioner participated in the examination and thereafter, the certificate verification was conducted on 09.10.2017. The petitioner attended the certificate verification. On 05.12.2017 the 2nd respondent published the result of candidates who were provisionally admitted for the interview in the ratio of 1:2/1:3 which was scheduled on 19.12.2017. However, the name of the petitioner did not figure in the list. In the annexure of the publication, the register number of the petitioner shown as rejected for not satisfying the eligibility conditions. In the said circumstances, a writ petition in W.P.No.32939 of 2017 was filed on 14.12.2017. A direction was issued to allow the petitioner to participate in the oral test. Thereafter, the result was published. However, as far as the petitioner was concerned, the same was withheld, since the writ petition filed by the petitioner was pending finalisation. Finally, the provisional list was published on 19.01.2018. In the said circumstances, the petitioner has once again approached this Court in



the present writ petition seeking to declare her result and to select and appoint her as Hostel Superintendent Cum Physical Training Officer under the Tamil Nadu Employment and Training Subordinate Services.

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3.Mr.A.R.Suresh, learned counsel for the petitioner would submit that the petitioner is fully qualified for the subject appointment, but unfortunately her certificate obtained from Karnataka Secondary Education Examination Board was held to be not equal to the qualification prescribed in the subject notification. In any case, the 1st respondent Commission has not published the marks of the petitioner only then she would know as to how her name could not be included in the final provisional selection list. In the absence of obtaining of marks and the results of the petitioner, she is unable to know as to where exactly she stands today in the face of her participation in the selection. Therefore, the learned counsel would urge this Court to direct the Commission to declare her result and also pass consequential direction to appoint her in the subject post.

4.In response to the notice by this Court, a common counter affidavit has been filed in both the writ petitions. In the counter affidavit, in paragraph 6, it is clearly averred as under:

"6.It is also further stated that the said subject of equivalence of the certificate issued by Karnataka Secondary Education Board was placed before the Equivalence Committee in its 28th meeting held on 16.11.2009. The Equivalence Committee has passed resolution as not equivalent and the same has been forwarded to the Government and the G.O. is still awaited. Therefore, even though the petitioner cannot be found fault with for relying on the proceedings of Director, School Education Department, Dated 23.06.2004, the fact remains that the competent Authority namely the Equivalence committee constituted for this purpose vide G.O.Ms.441, P&AR (PER.R) Department dated 20.12.1993 has decided the issue otherwise. Further, as per Note (ii) under clause 5(B) of Notification quoted hereunder.

(ii)Applicants claiming equivalence of qualification to the prescribed qualification should upload and submit evidence for equivalence of qualification in the form of G.O. issued prior to the date of this notification when called for. Failing which their application will be summarily rejected. The G.O's issued regarding equivalence of



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prescribed qualification after the date of this notification will not be accepted. The list of qualification considered as equivalent to the qualification prescribed for this recruitment is provided in Annexure - I to this Notification. (Refer para 10 of the Instructions to Applicants' and Annexure - I to this Notification)

The candidate has not produced the G.O. In such circumstances, her application is liable for rejection as she lacks in qualification to apply for the post."

5. Apart from the above averments, it is also averred in paragraph 8 of the counter affidavit that even otherwise without going into the correctness of the qualification and eligibility of the petitioner, on the basis of her performance both in the written examination as well as the oral test, she has not reached the zone of selection under the category i.e. M.B.C.(W) and therefore, the writ petitioner cannot be granted any relief and both the writ petitions are liable to be dismissed.

6. In view of the specific averments as contained in the counter affidavit filed on behalf of the respondents, there are two issues emerge against the petitioner, firstly that the certificate obtained by her from Karnataka Secondary Education Examination Board is not found equivalent to the qualification prescribed by the 1st respondent Commission for appointment to the post of Hostel Superintendent cum Physical Training Officer in the Tamil Nadu Employment and Training Subordinate Services.

7. At para 6 of the counter, as extracted above, would clearly indicate that the Equivalence Committee has passed resolution that the certificate as not equivalent from the Competent Committee and there ends the matter. Secondly, even otherwise, it is further averred in the counter affidavit that the petitioner has not reached the zone of selection even assuming her qualification was in order and which event, in all fours, the writ petitions are liable to be rejected as being without merits. Once it has been averred specifically that the petitioner has not reached the zone of selection, the question of publication of marks for the petitioner alone is not desirable and also the petitioner has no right to ask her marks declared, once she is declared to have failed in the selection.

8. In view of the above, nothing survives for consideration in these writ petitions. Therefore, both the writ petitions are dismissed as being without any



merits. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are also dismissed.

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Sd/-
Assistant Registrar(insp cell)

//True Copy//

Sub Assistant Registrar

Sgl

To

1.The Secretary,
Tamilnadu Public Service Commission,
Frazer Bridge Road,
VOC Nagar, Park Town,
Chennai 600 003.

2.The Secretary & Controller of Examinations (i/c),
Tamilnadu Public Service Commission,
Frazer Bridge Road, VOC Nagar,
Park Town, Chennai - 600 003.

+lcc to Mr.A.R.Suresh , Advocate SR.No. 53837
W.P.No.3519 of 2018 and
W.P.No.32939 of 2017

A.SK(01/08/2019)