

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WP.No.6984 of 2012

The Tamil Nadu Public Service Commission
rep. by its Secretary
No.1, Greams Road
Chennai-600 006

..Petitioner

Vs.

1.The Tamil Nadu Information Commission
Rep. by its Registrar
Kamadhenu Super Market
First Floor, Old No.278, New No.373, Anna Salai
Teynampet
Chennai-600 018

2.M.Senthil Kumar

..Respondents

Prayer:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a writ of Certiorari calling for the records relating to the impugned order dated 06.06.2011 made in case No.1063/Enquiry/2011 in the matter Mr.M.Senthilkumar Vs. Public Information Officer, Tamil Nadu Public Service Commission on the file of the 1st respondent and to quash the same as void, unlawful, unjust and unconstitutional.

For Petitioner : Mr.M.Devendran

For Respondents : Mr.Niranjana Rajagopal

& Ms.K.Swetha for R1

No appearance for R2.

ORDER

The Tamil Nadu Public Service Commission, represented by its Secretary, is the petitioner herein. The Tamil Nadu Information Commissioner, represented by its Registrar, is the first respondent who was approached by the second respondent, seeking to furnish 'Workshop Experience Certificate Verification Report from Transport Commissioner' under Section 6(1) of the R.T.I. Act, 2005, relating to the post of Motor Vehicles Inspector, Grade-II in TNPSC Advertisement Nos.107 and 187.

2. Originally, the 2nd respondent was informed that the Report received from the Transport Commissioner cannot be revealed to him as per Section 8(1)(e) of the RTI Act, 2005. However, alleging improper communication, the 2nd respondent filed the first appeal under Section 19(1) to the Appellate Authority on 03.12.2010. To which, a reply was sent to the 2nd respondent on 06.01.2011 reiterating the reply sent to him vide memo dated 25.11.2010.

3. Being aggrieved by the reply of the Appellate Authority, the 2nd respondent moved the 1st respondent Commission by filing a second appeal under Section 19(2) of the Act.

4. According to the petitioner/TNPSC, the first respondent, in blatant violation and in disregard to the duties cast on it under the Act, allowed the request of the 2nd respondent by directing the Petitioner Commission to furnish the Report sought for by the 2nd respondent. Aggrieved by the said order dated 06.06.2011, this writ petition is filed.

5. It is submitted by the learned counsel for the petitioner that the report sought could not be provided to the 2nd respondent for certain bonafide reasons.

6. It is seen that the 2nd respondent herein had approached this court by way of W.P.No.8000 of 2011 seeking to appoint him as Motor vehicle Inspector-Grade II based upon the re-verification report forwarded by the Transport Commissioner, Chennai, in his Letter No.50267/T3/2010 dated 21.12.2010 to the Tamil Nadu Public Service Commission. This court, by order dated 08.01.2017, dismissed the said writ petition based on the report of the TNPSC.

7. Today, when the matter is taken up for hearing, it is submitted by the learned counsel for the petitioner-TNPSC that the marks obtained by the 2nd respondent was not within the zone of consideration to the selection to the post of Motor Vehicle Inspector Grade II, however, the said document would not be now helpful to the 2nd respondent now, due to efflux of time.

8. The learned Standing counsel appearing for the petitioner-TNPSC produced a Letter dated 22.10.2019, by way of instructions, wherein, it had been stated that the particulars relating to the Notification No.107/2007 dated 18.04.2007 are not traceable in the Commission's office, since the office was shifted twice after the recruitment. It is also stated that the documents relating to the Notification No.187 & 191/2009 dated 24.02.2009 were seized by the Directorate of Vigilance and Anti Corruption Department.

9. In any event, writ petitioner/TNPSC has conceded before this court that the report sought for by the 2nd respondent and the order passed by the 1st respondent, with a direction to the Public Information Officer, to furnish the same to the 2nd respondent herein, cannot be said to be against the rules of TNPSC, but the said report could be furnished as they also come within the ambit of RTI.

10. The learned counsel for the petitioner however submits that due to bonafide reasons at the time of selection and recruitment process, relating to Notification No.107/2007 dated 18.04.2007, the report sought for, cannot be furnished to the 2nd respondent at that point of time.

11. Recording the aforesaid submission, the writ petition is disposed of. It is open to the 2nd respondent, to work out his remedy before the authorities concerned, if he is still aggrieved and if it is permissible under law. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Registrar, Tamil Nadu Information Commission
Kamadhenu Super Market
First Floor, Old No.278, New No.373, Anna Salai
Teynampet, Chennai-600 018

+1 cc to M/s.G.R.Associates, Sr.No. 88516
+1 cc to M/s.V.Karunakaran, Advocate SR.No.88893

AKM/13.12.19/3P-4C /

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