

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2019

CORAM

THE HONOURABLE MR. JUSTICE M.VENUGOPAL
and
THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.8408 of 2019

and

WMP No.8932 of 2019

P. Gokul Kaleeswaran .. Petitioner

Vs

1. Union Public Service Commission,
Rep by Under Secretary (CSM),
Dholpur House,
Shahjahan Road,
New Delhi - 110 069
 2. The Union of India,
Represented by its Deputy Secretary to Government,
Ministry of Social Justice and Employment,
Department of Disability Affairs,
Shastri Bhawan,
New Delhi.
 3. Office of the Chief Commissioner for Persons with
Disabilities,
Rep by the Chief Commissioner,
Ministry of Social Justice and Empowerment,
Sarojini House, 6, Bhagwan Dass Road,
New Delhi
 4. Central Administrative Tribunal,
Rep by its Registrar,
High Court Buildings,
Chennai - 600 104
- ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Mandamus directing the Fourth Respondent to dispose of the Original Application No.1198 of 2018 pending on its file at an early date.

For Petitioner : Mr.R. Bharanidharan for
Mr.P. Murhukumaarasaamy

For R.1 : Dr.M. Devendran
For R.2 and R.3 : MrV. Ashok Kumar
For R.4 : Tribunal

ORDER

(Order of the Court was made by M. VENUGOPAL,J.,)

Heard Both Sides.

2. No Counter is filed on behalf of the Respondents No.1 to 3.

3. According to the Petitioner, he filed Original Application No.1198 of 2018 before the Fourth Respondent/Central Administrative Tribunal, Chennai praying for passing of an Order in directing the First Respondent /Union Public Service Commission, represented by Under Secretary (CSM), Dholpur House, Shahjahan Road, New Delhi - 110 069 to permit him to appear along with a scribe for the Civil Service Main Examination 2018 in consonance with the guidelines issued by the Ministry of Social Justice and Empowerment comprised in F.No.16-110/2003 - D.D.III dated 26.02.2013 issued pursuant to the direction of the 3rd Respondent by Order 23.11.2012.

4. As a matter of fact, the Writ Petitioner, before the Fourth Respondent/Tribunal, sought an interim relief/direction to accept his application in granting him the assistance of a Scribe.

5. It transpires that the Fourth Respondent/Tribunal on 20.09.2018 passed an Order in O.A.No.310/01198/2018, which runs as under:-

" We have given considerable thought in the matter and we feel that interest of justice would be met as the respondents have not replied to the applicant's representation which is made pursuant to the High Court's direction and as the main examination is going to be held on 28.09.2018, the respondents, especially UPSC is directed to provide a Scribe to the applicant to appear in the main written examination and keep the result of the applicant in a sealed cover and not to publish his result until and unless he procures a

disability certificate as stipulated in the rules/instructions to the candidates within a month from today from a Government Hospital."

6. Apart from the above, the Fourth Respondent/Tribunal on 25.02.2019 in O.A.No.310/01198/2018 (filed by the Writ Petitioner as an Applicant) at Paragraph Nos.2 and 3, had observed the following:-

" 2. In view of the above, in partial modification of the interim order of this Tribunal dated 20.09.2018, respondent R2 is directed to open the sealed envelope containing the results of the applicant & inform the Tribunal on the next date of hearing whether the applicant had scored adequate marks to qualify for being called for interview.

3. The status of compliance of production of disability certificate by the applicant as stipulated in the rules/instructions to the candidates shall also be reported."

and directed the matter to be called on 04.03.2019.

7. At this stage, the Learned Counsel for the Writ Petitioner submits that on 08.03.2019, the O.A.No.310/01198/2018 (filed by the Writ Petitioner) came up for hearing and that, the matter could not reach before the Tribunal on that date and hence, the O.A.No.310/01198/2018 was directed to be called on 05.04.2019

8. The Petitioner, in the present Writ Petition, has sought for passing of an Order by this Court directing the Fourth Respondent/Tribunal to dispose of O.A.No.310/01198/2018 pending on its file at an early date.

9. The Learned Counsel for the First Respondent submits that the Writ Petitioner is not a PWBD candidate in accordance with Civil Services (Main) Examination, 2018 Rules and further the result of the Petitioner could be considered if he is considered as a PWBD candidate because of the reason that he had availed the admissible benefits to this category in the Civil Services (Main) Examination, 2018. Apart from that, he had failed to produce the requisite Certificate of Disability in the prescribed format.

10. It must be borne in mind that the object of the 'Mandamus' is to compel a performance of a legal duty on the part of some individual or body who is entrusted by Law with that duty. After all 'Mandamus' is a discretionary remedy and it cannot be claimed as a matter of right. Moreover, a Writ of Mandamus cannot be issued in an anticipation of an injury except in case of threat to a fundamental right. Also that a 'Writ of Mandamus' is only granted to compel the performance of duties of a 'Public Character'.

11. It is not in dispute that the First Respondent had submitted a Reply Statement to O.A.No.310/01198/2018 (filed by the Writ Petitioner) before the Tribunal and the matter is ready for Hearing.

12. In view of the fact that O.A.No. 310/01198/2018 is ready for hearing before the Fourth Respondent/Tribunal, at this stage, this Court, without expressing any opinion on the merits of the subject matter in issue, simpliciter directs the Fourth Respondent/Tribunal to take up O.A.No. 310/01198/2018 and dispose of the same within a period of three weeks from the date of receipt of a copy of this Order. The Petitioner as well as the Respondents No.1 to 3 are directed to lend assistance and unstinted co-operation to the Tribunal in disposing of the matter within the time adumbrated by this Court.

13. With the aforesaid observations and directions, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

sr

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

To

1. The Under Secretary (CSM),
Union Public Service Commission,
Dholpur House,
Shahjahan Road,
New Delhi - 110 069
2. The Deputy Secretary to Government,
Union of India,
Ministry of Social Justice and Employment,
Department of Disability Affairs,
Shastri Bhawan,
New Delhi.

3. The Chief Commissioner,
Office of the Chief Commissioner for
Persons with Disabilities,
Ministry of Social Justice and Empowerment,
Sarojini House, 6, Bhagwan Dass Road,
New Delhi

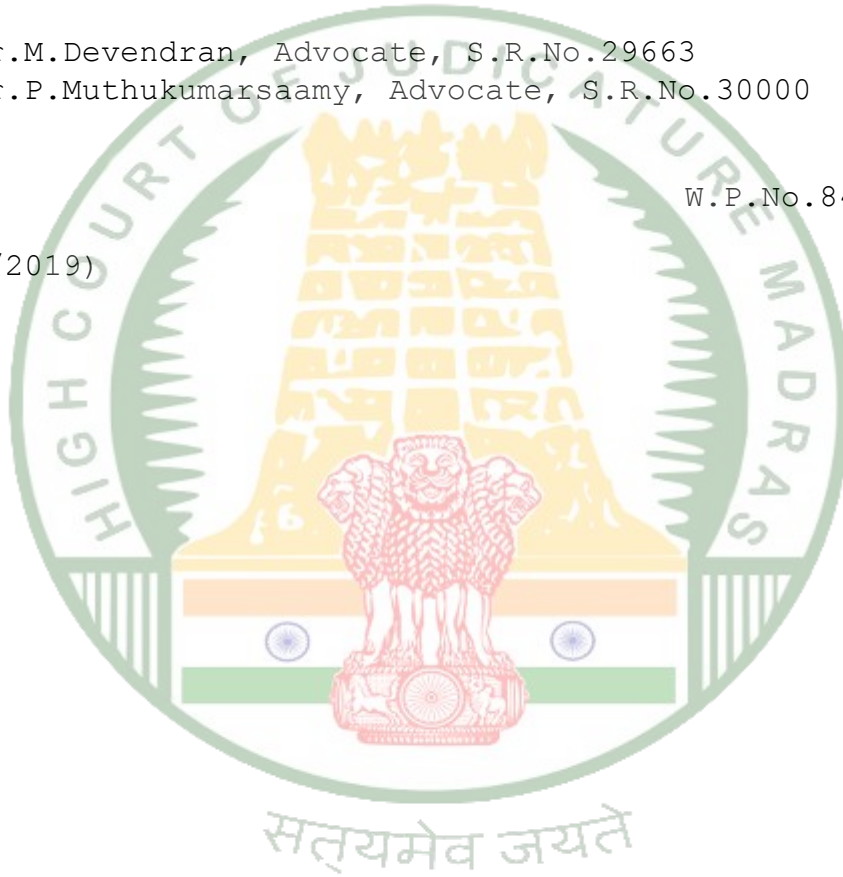
4. The Registrar,
Central Administrative Tribunal,
High Court Buildings,
Chennai - 600 104.

+1cc to Dr.M.Devendran, Advocate, S.R.No.29663

+1cc to Mr.P.Muthukumarsaamy, Advocate, S.R.No.30000

W.P.No.8408 of 2019

Kak (28/03/2019)



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