

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2019

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THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MS.JUSTICE P.T.ASHA

W.A.No.1407 of 2014

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

Vs.

1. J.Bharathi
2. State Government of Tamil Nadu,
rep. by its Chief Secretary,
Personnel and Administrative Reforms Department,
Fort St.George,
Chennai - 600 009. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order passed by the learned single Judge of this Court in W.P.No.2660 of 2014 dated 07.02.2014.

Prayer in W.P.No.2660 of 2014: Writ Petition has been filed under article 226 of the Constitution of India, praying for a Writ of Mandamus directing the respondents 1 and 2 to call the petitioner for counseling for appointment by direct recruitment as Steno Typist Grade III at appropriate rank in the vacancies notified by 1st respondent for Group IV posts for the years 2007-08 to 2012-13 in their notification dt 27.4.2012 and issue appropriate appointment and posting orders at an early date with appropriate seniority in accordance with the marks she scored in the examinations conducted by 1st respondent.

For Appellant : Mr.M.Devendran

For Respondents: No appearance for R1

Mr.N.Sakthivel,
Addl.Govt.Pleader for R2

J U D G M E N T

(Judgment of the Court was made by K.K.SASIDHARAN, J.,)

The 1st respondent submitted an application for appointment to various posts included in Group -IV Services pursuant to the notification issued by the Tamil Nadu Public Service Commission. The notification was issued on 27.04.2012. The respondent was not called for counseling. The respondent therefore approached the Tamil Nadu Public Service Commission. She was informed that she failed to fill up the relevant column regarding her technical qualification. The 1st respondent thereafter filed writ petition before the writ court in W.P.No.2660 of 2014.

2. The learned single Judge opined that the 1st respondent was having the qualification for appointment to the post of Steno-Typist Grade-III. Such being the factual position, the learned single Judge directed the appellant to call the 1st respondent for counseling by offering her the post of Steno-Typist Grade-III by giving her appropriate rank. The said order is under challenge at the instance of the Tamil Nadu Public Service Commission.

3. We have heard the learned counsel for the appellant. None appears on behalf of the 1st respondent, inspite of adjourning the matter on multiple occasions, taking into account the absence of the 1st respondent or her counsel.

4. The notification dated 27.04.2012 contains the details of qualification to be incorporated in the application form. The application form submitted by the 1st respondent indicates that her first preference was to the post of Junior Assistant. In the order of preference, the post of Steno-Typist Grade-III was shown at Serial No.5. Failure to call the 1st respondent for counseling appears to be the reason for filing the writ petition. The learned single judge without perusing the application submitted by the 1st respondent has allowed the writ petition.

5. We have perused the application submitted by the 1st respondent. It was an on-line application. In the column regarding Typewriting / Shorthand qualification, there was no entry made by the 1st respondent. In short, it was left unfilled. Since there was no claim that the 1st respondent was having the qualification for appointment to the post of Steno-Typist Grade-III, her candidature was considered by the Tamil Nadu Public Service Commission for the post of Junior Assistant. There is no question for calling the 1st respondent for counseling for the simple reason that she has not indicated in

her application that she was qualified for appointment to the post of Steno-Typist Grade-III. In fact, the very preference shown by the 1st respondent for appointment to the post of Junior Assistant itself shows that her application was primarily for the post of Junior Assistant and only in the absence of the said post, the other post would be preferred by her.

6. When it was made out that there was no entry made by the 1st respondent with regard to her qualification for the post of Steno-typist, the learned single Judge was not justified in directing the appellant to call her for counseling and to offer her appointment to the post of Steno-Typist Grade-III. We are also informed that the 1st respondent was appointed subsequently to the post of Steno-Typist Grade-IV.

7. We are of the view that the impugned order deserves to be set aside. The order dated 07.02.2014 passed by the learned single Judge is set aside. The writ petition in W.P.No.2660 of 2014 is dismissed.

8. The intra court appeal filed by the Tamil Nadu Public Service Commission is allowed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vsi

To

The Chief Secretary,
State Government of Tamil Nadu,
Personnel and Administrative Reforms Department,
Fort St.George,
Chennai - 600 009.

+1 cc to M/S.Dr.M.Devendran, Advocate, S.R.No.58763

VSN-II(CO)
SSM(09/08/2019)

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