

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2019

CORAM:

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

W.A.No.1737 of 2014

1.The General Manager,
Tamil Nadu Transport Corporation (Chennai) Ltd.
Pallavan House,
Chennai - 600 002. Appellant

-Vs-

1.J.Kovaisamy

2.State of Tamil Nadu,
Rep. by its Secretary,
Employment & Training Department,
Fort St.George,
Chennai - 600 009.

3.The District Employment Officer,
(Technical Personnel)
Santhome,
Chennai - 600 004.

4.The District Employment Officer,
Tirunelveli District ... Respondents

Writ Appeal filed under Clause 15 of Letter Patent against the order in W.P.No.20290 of 2012 dated 27.08.2014 on the file of the High Court of Judicature at Madras.

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus directing the respondents particularly directing the 3rd respondent to sponsor the petitioner's name for an employment under the 2nd respondent directing the 2nd respondent to consider the petitioner for an employment on the basis of the petitioner's representation dt.12.07.2012 sent to all the respondents.

For Appellant : M/s.Rajini Ramadoss

For R1 : Mr.J.S.Arunkumar

For R2 to R4 : Mrs.Sri Jayanthi,
Special Government Pleader

J U D G M E N T

[Judgment of the Court was delivered by P.T.ASHA,J.]

The above Intra-Court appeal arises against the order in W.P.No.20290 of 2012 in and by which the learned Single Judge of this Court had directed the 2nd respondent herein to call for applications to fillup the posts by direct recruitment through open market apart from inviting names from the employment exchange. The 2nd respondent was also directed to give weightage to the academic marks obtained in the educational qualification, where the educational qualification prescribed under the service Rules as 10th Standard (SSLC) / 12th Standard (HSC) or to hold written test commensurate with the qualification of 10th Standard or 12th Standard, where the prescribed educational qualification is less than 10th Standard or the prescribed qualification is degree. The selection should be based on the written test commensurate with the qualification prescribed under the rules.

2.The learned Single Judge had also observed that the respondents in the Writ Petition could consider recruitment through the TNPSC or form a centralised Recruitment agency to select the candidates.

3.The parties are referred to in the same litigative status as in the Writ Petition. The facts in brief which is culminated in filing the above Writ Petition are as follows:

4.The Writ petitioner who is a physically challenged person suffering 42% of disability had completed 12th Standard and ITI Diploma in Technical Education for Fitter from a Government Institution. The Writ Petitioner had thereafter registered himself with the District Employment Exchange, Tirunelveli on 24.10.1990, which was being renewed time and again. The Writ petitioner would contend that though he was registered with the Employment Exchange for over 22 years he did not receive any call letter for employment and therefore he continued to be unemployed.

5.Meanwhile, he had undergone the apprenticeship training programme organised by the Tamil Nadu Transport Corporation, (Tirunelveli) Ltd. Tirunelveli. This course was undergone by the Writ petitioner for 248 days from 16.03.2010 to 15.03.2011 to the satisfaction of all the concerned. The Writ petitioner

would submit that due to certain family circumstances he had shifted his residence to Chennai and consequently he had got his Employment Exchange registration transferred from Tirunelveli to the 3rd respondent.

6. Though the Writ petitioner had these qualifications he was not given any call letter for any interview. Therefore left with no other alternative the Writ petitioner had filed the Writ Petition for a direction to the 3rd respondent to sponsor his name for employment under the 2nd respondent and directing the 2nd respondent to consider him for an employment on the basis of his representation dated 12.07.2012 which had been forwarded to all the respondents.

7. During one of the hearing before the learned Single Judge, i.e., on 16.07.2014, representation was made by the Additional Government Pleader that the petitioner's name had been sponsored by the 3rd respondent to the 2nd respondent for the post of Junior Assistant by proceedings dated 25.03.2013. However the fate of this letter was not known. Therefore the Court had directed the 2nd respondent to produce the relevant file with regard to the selection of Junior Assistant pursuant to the sponsorship referred above.

8. Thereafter, in the proceedings dated 31.07.2014, the District Employment Officer, Tirunelveli was impleaded as 4th respondent to find out as to whether they had sponsored the petitioner's name for employment.

9. By order dated 14.08.2014, the learned Judge had asked for the following details:

- i) When the second respondent wrote to the Employment Exchange to sponsor the names of the candidates for appointment to the post of Junior Assistant?
- ii) State the number of vacancies for which sponsorship was sought?
- iii) When the Employment Exchange sponsored the names of the candidates pursuant to the request made by the second respondent?
- iv) The details of the call letter sent to the candidates based on the list of candidates sponsored by the Employment Exchange.
- v) The dates on which the candidates were directed to appear for interview.
- vi) Number of candidates selected and furnish their names with marks obtained by them in the interview.
- vii) Whether any letter was addressed to the Employment Exchange informing about the selection made and requesting to send another list to fill the vacancies.

Viii) Concerned rules relating to appointment to the post of Junior Assistant”
and the matter was directed to be listed on 20.08.2014.

10. On the adjourned date, the learned Single Judge had directed the 2nd respondent to issue suitable instructions to the highest authority in the Personnel Department to appear before the Court on 27.08.2014. On 27.08.2014, the Court after hearing the officials had proceeded to pass the impugned order. Challenging the said order the 2nd respondent has filed the above Writ Appeal.

11. Heard Mrs. Rajini Ramadoss, learned counsel for the appellant, Mr. J. S. Arunkumar, learned counsel for the 1st respondent and Mrs. A. Sri Jeyanthi, Special Government Pleader for the respondents 2 to 4.

12. From a reading of the order under challenge, it is seen that the learned Judge has considered the issue at length by taking into account the vacancies that had fallen in the respondent Transport Corporation, the recruitment policy that had been adopted and the Service Rules.

13. The learned Judge on a perusal of the records observed that the Transport Corporations were appointing candidates by issuing call letters without giving due publicity through advertisement or through the District Employment Exchange. That apart there is no established selection procedure for employing personnel into the Transport Corporation. Ultimately, considering the conspectus of the entire issue before him the learned Judge had passed the impugned order which has been extracted supra.

14. In the affidavit and additional affidavit filed before us by the 2nd respondent, the 2nd respondent has detailed the selection process adopted by them, in which category-wise qualification has been given for Conductors, Drivers, Junior Tradesman, Junior Engineer, Assistant Engineer and Junior Assistant.

15. Apart from the Educational Qualification, experience, height and age for the post of Conductor, Driver, Junior Tradesman, Junior Engineer and Assistant Engineer, the candidate must also have passed in the practical test. However, the details of the practical test has not been provided.

16. With reference to the Junior Assistant, an additional oral test namely Viva-Voce was prescribed. However in the interview call letter dated 10.12.2014, which was forwarded by

the 2nd respondent there is no reference to the practical test. Therefore the same appears to be an after thought and an interpolation for the present proceedings.

17.As rightly held by the learned Single Judge in matters of appointment in public services certain amount of transparency is very essential for selecting persons of merit. Such an end can be achieved only if wide publicity is given and persons from all over are permitted to submit their candidature and people of merit compete with each other. Though the learned Judge had passed an order as early as in August 2014, there does not appear to be a selection procedure in place by the 2nd respondent to date.

18.The learned Single Judge while disposing of the Writ Petition directed that the Writ petitioner's candidature should be considered since he was within the upper limit prescribed for Junior Assistant at that relevant point of time.

19.We did not find any justification to interfere with the order passed by the learned Single Judge except to dispose of the appeal with a direction to the 2nd respondent to frame a recruitment policy for various categories of workers in their department prescribing the Educational Qualification, Age, work experience (if any), special qualifications for specialised post etc,. They should also provide for a transparent selection process which should include written/practical test, besides interview. The said exercise should positively be concluded by the respondents within a period of three months from the date of receipt of a copy of the Judgement.

20.Meanwhile, if there is any vacancy in the post of Junior Assistant and applications are called for, the Writ petitioner shall be considered and suitable age relaxation shall also be given considering the fact that he had registered with the Employment Exchange as early as in the year 1990 and his candidature had been sponsored only in the year 2013 for no fault of his.

The Writ Appeal is disposed of with the above direction. There shall be no order as to costs.

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Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Secretary
State of Tamil Nadu,
Employment & Training Department,
Fort St.George,
Chennai - 600 009.

2.The District Employment Officer,
(Technical Personnel)
Santhome,
Chennai - 600 004.

3.The District Employment Officer,
Tirunelveli District

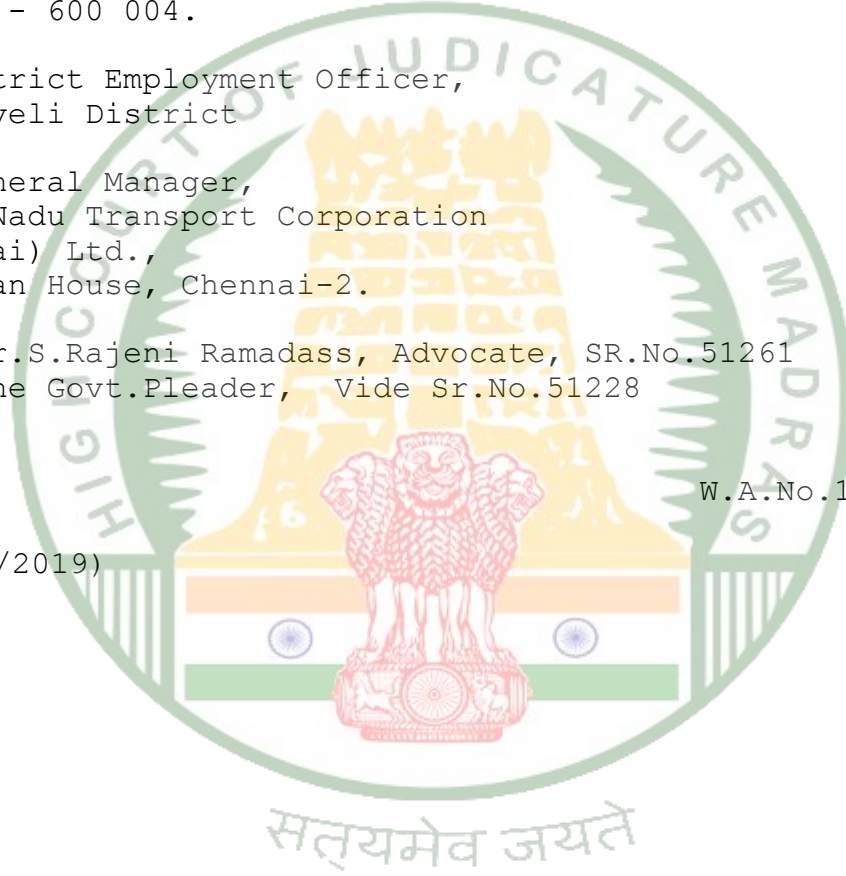
4. The General Manager,
Tamil Nadu Transport Corporation
(Chennai) Ltd.,
Pallavan House, Chennai-2.

+1cc to Mr.S.Rajeni Ramadass, Advocate, SR.No.51261

+1cc to the Govt.Pleader, Vide Sr.No.51228

W.A.No.1737 of 2014

Kak(21/08/2019)



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