IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Tuesday, the Nineteenth day of February Two Thousand Nineteen

PRESENT

THE HON`BLE MR JUSTICE S.M. SUBRAMANIAM

WMP Nos.28471 of 2018

AND 33397 AND 33328 OF 2018

IN WP.NO.24428 OF 2018

M.SELVAM, [PETITIONER IN WMP No.28471/2018 IN WP.NO.24428 OF 2018]

THE TAMIL NADU STATE MARKETING CORPN. LTD., REP BY ITS GENERAL MANAGER (ADMIN) TASMAC, GOVT. OF TAMIL NADU UNDERTAKING, GANDHI IRWIN BRIDGE ROAD, EGMORE, CHENNAI 8 [PETITIONER IN WMP No.33397/2018 IN WP.NO.24428 OF 2018]

1 TASMAC UZHIYAR MANILA SAMMELANAM, (CITU), REP. BY ITS GENERAL SECRETARY, NO.27, MOSQUE STREET, CHEPAUK, CHENNAI-5. [PETITIONER IN WMP No.33328/2018 IN WP.NO.24428 OF 2018]

2 P.R.SOMASUNDARAM

Vs

1 THE GOVERNMENT OF TAMIL NADU, REP BY SECRETARY, HOME DEPARTMENT, PROHIBITION AND EXCISE DEPARTMENT, FORT ST. GEORGE, CHENNAI [RESPONDENTS IN WMP Nos.28471/2018 IN WP.NO.24428 OF 2018]

2 THE TAMIL NADU STATE MARKETING CORPN. LTD., REP BY ITS GENERAL MANAGER (ADMIN) TASMAC, GOVT. OF TAMIL NADU UNDERTAKING, GANDHI IRWIN BRIDGE ROAD, EGMORE, CHENNAI 8

1 M.SELVAM, [RESPONDENT IN WMP No.33397/2018] IN WP.NO.24428 OF 2018

2 THE GOVERNMENT OF TAMIL NADU, REP BY SECRETARY, HOME DEPARTMENT, PROHIBITION AND EXCISE DEPARTMENT, FORT ST. GEORGE, CHENNAI

https://hcservices.ecourts.gov.in/hcservices/

1 M.SELVAM, [RESPONDENT IN WMP No.33328/2018 IN WP.NO.24428 OF 2018]

2 THE GOVERNMENT OF TAMIL NADU,
REP BY SECRETARY, HOME DEPARTMENT,
PROHIBITION AND EXCISE DEPARTMENT, FORT ST.
GEORGE, CHENNAI

3 THE TAMIL NADU STATE MARKETING,
CORPN. LTD., REP BY ITS GENERAL MANAGER
(ADMIN) TASMAC, GOVT. OF TAMIL NADU
UNDERTAKING, GANDHI IRWIN BRIDGE ROAD,
EGMORE, CHENNAI 8

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to direct the respondents to permit the petitioner to apply through online for the post of junior assistant pursuant to the notification of the 2nd respondent dt 13.8.2018 (IN WMP.NO.28471 OF 2018) pending disposal of the above writ petition No.24428 of 2018,

(ii)*To vacate the interim stay order dated 19.9.2018 passed in MP No.28471 of 2018 in WP No.24428 of 2018 on the file of this Honourable Court in WMP.NO.33397 OF 2018 and;*

(iii)To vacate the interim stay granted by this Honourable Court on 19.9.2018 in WMP No.28471 of 2018 in WP No.24428 of 2018 in WMP.NO.33328 OF 2018 respectively.

Order : These petitions coming on for orders upon perusing the petitions and the respective affidavits filed in support thereof and upon hearing the arguments of M/S.LESI SARAVANAN, Advocate in WMP.NO.28471 OF 2018 AND RESPONDENTS IN WMP.NOS.33397,3328 OF 2018 AND MR.VIJAY NARAYANAN ADVOCATE GENERAL ASSISTED BY MRS.P.RAJALAKSHMI, AGP., FOR 1st Respondent in WMP.NO.28471 OF 2018 AND 2ND RESPONDNET IN WMP. NO.33397 OF 2018 AND MR.VIJAY NARAYANAN ADVOCATE GENERAL ASSISTED BY MR.M.JOHN KENNDAY, ADVOCATE FOR PETITIONER IN WMP.NO.33397 OF 2018 AND OF MR.V.AJOY KHOSE, ADVOCATE FOR 3 & 4 RESPONDENTS IN WMP.NO.28471 OF 2018 AND PETITIONER IN WMP.NO.33328 for the petitioner the court made the following order:-

The main relief sought for in the present writ petition is to quash the instructions issued to the applicants by the General Manager (Administration), TASMAC fixing the Educational qualification to the post of Junior Assistant as Bachelor's Degree and consequently, direct the respondents to fix the educational qualification as SSLC as sought for in the representation of the petitioner dated 04.09.2018.

2. The learned counsel for the writ petitioner stated that relaxations were granted on earlier occasions by the competent authorities in respect of the Educational qualification fixed for appointment to the post of Junior Assistant in the TASMAC. However, in respect of the present selection process, no such relaxation is

https://hcservices.ecourts.gov.in/hcservices/

given and therefore, the petitioner is constrained to move the present writ petition.

3. The learned Advocate General appearing on behalf of the respondents made a submission that 500 posts of Junior Assistant are vacant as of now and the respondent/Corporation had taken a decision to fill up all the posts in order to run the administration smoothly. The Corporation has decided to appoint the in-service candidates by conducting a special qualifying examination and as a one time measure, the Government has issued orders relaxing the educational qualification from B.Com degree first class to any degree from any University. Such a decision is taken as a one time measure so as to extend the benefit to the in-service candidates, who are all already working for a considerable length of time.

4. The Educational qualification prescribed in the Rules for appointment to the post of Junior Assistant i.e., B.Com Degree with first class has now been relaxed enabling the in-service candidates to secure appointment to the post of Junior Assistant. However, any degree from any university is prescribed even for the special qualifying examination proposed to be conducted for appointment to the post of Junior Assistant. The respondents have already received 10,404 applications from the in-service candidates and on account of the interim order granted in the present writ petition, the authorities are unable to proceed with the process of selection.

5. Appointment can never be claimed as a matter of right. Prescribing the educational qualifications and selection criteria are the prerogative of the competitive authorities. The candidates who are all aspiring to participate in the process of selection cannot question the eligibility criteria, educational qualifications, age limit and other requirements prescribed in the recruitment Notifications. A challenge of these aspects can be entertained only if there is any unconstitutionality or otherwise. The candidates who are all aspiring to participate in the selection process are bound by the recruitment Notification and the terms and conditions prescribed therein.

6. The writ petitioner cannot seek a prayer that the qualification for the post of Junior Assistant should be fixed as S.S.L.C. The writ petitioner has no locus standi to suggest the educational qualification, more specifically, for recruitment to the post of Junior Assistant in the respondent/Corporation. Thus, the very relief of direction sought for in the main writ petition is absolutely misconceived. The right of the candidates are certainly limited and strictly with reference to the terms and conditions, the educational qualifications and other criteria notified by the competent authorities.

7. This being the legal principles to be followed, this Court is of an opinion that the writ petitioner, if at all qualified as per the recruitment notification, is entitled to participate in the

https://hcservices.ecourts.gov.in/hcservices/

process of selection along with all other eligible candidates. Contrarily, the writ petitioner cannot challenge the very educational qualifications prescribed by the competent authorities for recruitment to the post of Junior Assistant.

8. Undoubtedly, a relaxation has been granted in respect of in-service candidates by relaxing the educational qualification from B.Com Degree First Class to any degree from any University. Such a relaxation is granted as one time measure, so as to, provide benefit to the in-service candidates who are all serving in the Organization for a considerable length of time. Thus, such a decision is to be considered as a policy decision of the respondents and the same cannot be interfered with, unless there is an unconstitutionality or denial of any rights to any other similarly placed candidates who are all aspiring to secure public employment through selection process. In the absence of establishing any such unconstitutionality, the Courts could not interfere with the policy decisions take by the respondents in this regard.

9. In view of the fact that the entire process of selection is stalled, this Court is of an opinion that further continuance of the interim order is certainly detrimental to the interest of the Corporation and the public administration. The Constitutional Courts must be cautious while granting the interim orders and the balance of convenience of the respective parties to the lis on hand is certainly imminent. Stalling of the entire administrative process would not only cause prejudice to the Corporation/Institution but also cause prejudice to the public at large. Thus, the constitutional Courts must be not only cautious, but exercise restraint in such kind of matters in granting interim orders for an unspecified period. If at all, the circumstances warrant grant of interim orders, it must be granted for a specific period and the matter must be listed accordingly and heard by the Courts and appropriate final orders be passed.

10. Granting of an order for unspecified period and keeping the writ petitions pending for years together can never be appreciated. The Registry, High Court also should ensure that all such matters, where the interim orders are granted long back, are listed before the appropriate Court having roster. If it is not done, the same would cause not only prejudice, but injustice to the litigants as well as the Public at large. Strong message in this regard is certainly warranted, in view of the fact that a large number of writ petitions are pending with interim orders for more than 10 years and the parties are struggling even to list the matter for hearing. This being the prevailing situation, this Court would at least expect Registry, High Court of Madras, to follow its own Circular issued in R.O.C.No.66574-A/2018/F1 dated 01.10.2018 and list all the vacate stay petitions which are all numbered, within a period of two weeks. The Circulars issued by the Registrar General of the High Court are to be followed by all the Authorities concerned. Thus, appropriate action are to be taken in this regard

https://hcservices.ecourts.gov.in/hcservices/

to list the vacate stay petitions in all such cases where the interim orders are granted for an unspecified period and the cases are kept pending for a long period.

11. In these circumstances, the Courts are bound to adopt a pragmatic and balancing approach so as to ensure that the interim orders granted are not affecting the Public at large.

12. Thus, this Court is of an opinion that the writ petitioner in the present case has not established any prima facie case for the further continuance of the interim order granted and accordingly, the interim order granted by this Court on 19.09.2018 stands vacated.

13. In the result, the vacate stay petition stands allowed and the stay petition dismissed.

14. Post the writ petition after two weeks.

-sd/-
19/02/2019

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE SECRETARY,
GOVERNMENT OF TAMIL NADU,
HOME DEPARTMENT,
PROHIBITION AND EXCISE DEPARTMENT,
FORT ST.GEORGE, CHENNAI

2 THE GENERAL MANAGER (ADMIN) TASMAC,
TAMIL NADU STATE MARKETING CORPN. LTD.,
GOVT. OF TAMIL NADU
UNDERTAKING, GANDHI IRWIN BRIDGE ROAD,
EGMORE, CHENNAI 8

3 THE REGISTRAR GENERAL,
HIGH COURT, CHENNAI.

C.C. to M/S.LESI SARAVANAN Advocate SR.NO.2551
C.C. to M/S.V.AJOY KHOSE Advocate SR.NO.2509
C.C. to M/S.M.JOHNKENNADY Advocate SR.NO.2557

Order
in
WMP Nos.28471 of 2018
AND 33397 AND 33328 OF 2018
IN WP.NO.24428 OF 2018
Date :19/02/2019

From 26.2.2001 the Registry is issuing certified copies of the Interim Orders in this format
VC (05/03/2019)

https://hcservices.ecourts.gov.in/hcservices/