



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAM
W.A.No.1775 of 2017

M.Umadevi ... appellant/ Petitioner

vs

1.The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
Park Town

2.The Government of Tamil Nadu,
rep. By its Chief Secretary,
Secretariat, Chennai

3.The Director,
Directorate of Vigilance and Anti-corruption,
No.24, P.S.Kumarasamy Raja Salai,
Greenways Road,
R.A.Puram,
Chennai 28

... Respondents/ Respondents

Appeal filed against the order passed by this Court dated 06.09.2017 in WP No.27905 of 2013.

Prayer in WP No.27905 of 2013:

For issuance of a Writ of Certiorarified Mandamus to Call for all relevant records relating to the impugned Selection List dated nil published by the 1st respondent Tamil Nadu Public Service Commission in the Group-I Examination 2006-2007 Notified in Advertisement No.120 dated 01.08.2007 herein to quash the same as arbitrary improper unjust unconstitutional thereby directing the 1st respondent to conduct Fresh Selection process for the said Group-I Examination 2006-2007 and consequently to allow the petitioner for the Oral Test/Interview to be selected and appointed on merit in the said examination.

For appellant : Mr.N.G.R.Prasad,
for Mr.J.Muthukumaran

For Respondents : Mr.V.T.Gopalan, Senior Counsel,
assisted by M/s.C.N.G.Niraimathi, for R-1



6. The order is challenged in this appeal. Since the learned counsel appearing for the appellant contended that the appellant had not made any markings in the paper, we had directed the DVAC as well as the Commission to produce the entire records in its possession and the records seized



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by the DVAC. Accordingly, the learned counsel appearing for the respective parties had produced the answer sheets of the candidates with dummy numbers 8199, 7682, 7882, 54189 and 53977. Ms.C.N.G.Niraimathi, learned counsel appearing for the Commission has produced the answer sheets of the appellant. We have examined the answer sheet of the appellant in comparison with the answer sheets of the other candidates, which were not invalidated despite the use of two different colour inks, viz. Blue and Black. In fact one of such candidates was successful in the interview and was also given an appointment. We therefore, directed the Secretary of the Commission as well as the Controller of Examination to appear before this court.

7. The officers of the Commission had examined the answer sheets. While the papers of some of the candidates, who had made similar markings were invalidated, the answer sheets of some of the other candidates were not invalidated, which would amount to unequal treatment by the Commission.

8. The appeal was adjourned to 27 July 2018. Ms.C.N.G.Niraimathi, learned counsel appearing for the Commission submitted before this Court on 27 July 2018 that all the papers will have to be placed before the Full Commission, so as to enable the body to take a decision as to whether the invalidation could be reconsidered. She made a request to handover all the answers sheet which were seized by DVAC, to enable the Commission to prepare a comprehensive note to be placed before the Full Commission. Accordingly, the Deputy Superintendent of DVAC had handed over the records to Mrs.R.Ranisoundram, Under Secretary of the Commission on 27 July 2018. The matter was adjourned to 2 August 2018 to enable the Commission to take a decision.

9. We have subsequently passed series of orders issuing directions to the Commission, taking into account the peculiar background facts. We are not dealing with various issues raised by the appellant and the Commission as the same are unnecessary now, in view of the ultimate decision taken by the Commission to appoint the appellant to the post of Deputy Registrar of Cooperative Societies.

10. The Commission verified the answer papers once again and the appellant was declared to have passed the examination. Thereafter, she was subjected to oral interview. The appellant came out successful. The Commission announced the results, declaring her eligible for appointment to the post of Deputy Registrar of Cooperative Societies. The recommendation was sent to the Government of Tamil Nadu. The Government in turn issued an order of appointment. We are informed that the appellant joined the service today.



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11. The appellant approached this Court in 2013 and thereafter, prosecuted the Writ Petition and the present appeal. We have taken note of the swift action taken by the appellant in the matter. Since there was no delay and laches, the Commission also agreed to re-look into the entire issue which ultimately culminated in selecting the appellant to the post of Deputy Registrar of Cooperative Societies.

12. We place on record the valuable assistance rendered by Thiru.V.T.Gopalan, learned Senior Counsel for the Commission and Mrs.C.N.G.Niraimathi, learned Standing Counsel by taking up the issue with the Commission for rendering justice to the appellant. We also place on record the efforts taken by the Commission to re-look into the issue with an open mind when certain material factors were pointed out, which would go to the root of the matter.

13. The appellant got appointment ten years after her non selection. It was a litigious journey for her. She succeeded in her mission to enter the Group I services in the State of Tamil Nadu. She was given justice at least after ten years.

14. The intra Court appeal is disposed of with the above observation. No costs. Consequently, connected miscellaneous application M.P.No.2 of 2013 is closed.

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07.03.2019

"For Being Mentioned"

This Appeal having been posted on this day for being mentioned pursuant to the order of this Court dated 07.03.2019 in the presence of Mr.N.G.R.Prasad for Mr.J.Muthukumaran, Advocate for the appellant and of Mr.V.T.Gopalan, Senior Counsel for M/s.C.N.G.Niraimathi, Advocate for the first Respondent and of Mrs.A.Srijeyanthi, Special Government Pleader on behalf of the Second and Third Respondent, the Court made the following order:

The learned counsel appearing for the Tamil Nadu Public Service Commission, on verification of the judgment made a mention before us that the observation made by this Court in the open court that the case of the appellant would not be treated as a precedent was omitted to be recorded in the final judgment dated 7 March 2019. We have therefore posted the matter today under the caption, "for being mentioned".

2. We have, in our judgment dated 7 March 2019 and more particularly in paragraph No.11, indicated the reasons for entertaining the writ appeal and giving relief to the appellant. The case of the appellant is very peculiar and only on account of the said background facts, we have



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moulded the relief. The Tamil Nadu public Service Commission also agreed to look into the entire issue once again, taking into account the peculiar facts relating to the appellant. We have also made it clear that we are deciding the case of the appellant on its own peculiar facts and the same would not be treated as a precedent. However, in the final judgment dated 7 March 2019, the said observation was omitted to be recorded.

3. We make it clear that the case of the appellant was decided taking into account the peculiar background facts and her initiation of writ proceedings way back in the year 2013. Since the ultimate decision was on the peculiar facts of the case, the judgment in W.A.No.1775 of 2017 would not be a precedent for other cases.

4. This order would be a part of the final judgment dated 7 March 2019 in W.A.No.1775 of 2017.

Sd/-

Assistant Registrar(CS-III)

Dated : 28/05/2019

Sd/-

Assistant Registrar(CS-III)

Dated : 31/10/2019

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
Park Town, Chennai

2.The Chief Secretary,
Government of Tamil Nadu,
Secretariat, Chennai

3.The Director,
Directorate of Vigilance and Anti-corruption,
No.24, P.S.Kumarasamy Raja Salai,
Greenways Road, R.A.Puram,
Chennai 28

**To be substituted
the order already
dispatched on
12.07.2019**

+1cc to Mr.R.Rajamohan , Advocate SR.No. 22177

+1 cc to Government Pleader Sr.No. 22055