

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2019

CORAM :

The Hon'ble Mr.A.P.SAHI, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SUBRAMONIUM PRASAD

W.P.(MD) No.23691 of 2019

Mahilvanan

.. Petitioner

-vs-

1.The Secretary,
Tamil Nadu Public Service
Examination Commission,
Chennai.

2.The Controller of Examiner,
Tamil Nadu Public Service Commission,
Chennai.

3.The Chairman,
Tamil Nadu Public Service Commission,
Chennai.

4.The Registrar
High Court of Madras,
Chennai.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the respondents to permit petitioner to participate the post of Civil Judge examination, issued Notification in No:25 of 2019 and permit to writ the exam with the help of scribe and preference given under the category of disability and consider petitioner based on representation made on 03.10.2019.

For Petitioner : Mr.S.Krishnan

For Respondents : M/s.C.N.G.Niraimathi
for RR 1 to 3

: Mr.B.Vijay for R-4

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

2.For appearing in the Civil Judge Junior Recruitment Examinations, the petitioner seeks a permission from this Court to command the respondents to allow him to appear with the aid of a Scribe, as he had lost his left arm in childhood.

3.The learned counsel for the petitioner contended that, as a matter of fact, in the other examinations conducted by the Tamil Nadu Public Service Commission, he had been granted such permission by the Examining Body, but there is no reason much less a valid reason for not allowing the petitioner to take the aid of a Scribe and therefore, prays to treat the rejection of his application, as a candidate for the said examinations, as arbitrary that does not stand reason.

4.On the other hand, Mr.B.Vijay, learned counsel appearing for the fourth respondent, has invited the attention of the Court to the instructions contained in the Brochure issued by the Commission in respect of the present examinations, where Clause 16-F reads as under:-

16. INFORMATION / INSTRUCTIONS TO THE CANDIDATES:

.....

F. The post of Civil Judge has been identified as suitable for LV/HH/OA/OL/BL/LC/DF/AC (without the assistance of the scribe and with the assistive device) categories of Differently abled Persons as per Rules [LV-Low Vision, HH-Hard of Hearing, OA-one Arm, OL-One Leg, BL-Both Legs, LC-Leprosy cured, DF-Dwarfism, AC-Acid Attack Victims] Provided the candidates who are able to perform the following physical activities alone are eligible as per Rule 10 of Tamil Nadu State Judicial Service (Cadre and Recruitment) Rules, 2007, as amended in G.O. (Ms.) No.234, Home (Courts-I) Department, dated 03.04.2018;

- | | | |
|-------------------------------|---|----|
| (a)Work performed by sitting | - | S |
| (b)Work performed by Standing | - | ST |
| (c)Work performed by Walking | - | W |
| (d)Work performed by Seeing | - | SE |
| (e)Work performed by Hearing | - | H |

- (f) Work performed by Reading and Writing - RW
- (g) Communicating (Communicating would also include verbal or non-verbal communication) - C

5. He further invites the attention of the Court to the reservation provided to the Differently Abled category candidates whereunder the proviso appended to the Explanation in Rule 10 of the TamilNadu Judicial Officers (Cadre & Recruitment) Rules, 2007, prescribes the eligibility to the following effect:-

10. Reservation of appointments:-

...

Provided further that the candidates who perform the following physical activities alone are Eligible:-

- (a) Work performed by Sitting-S
- (b) Work performed by Standing-ST
- (c) Work performed by Writing-W
- (d) Work performed by Seeing-SE
- (e) Work performed by Hearing-H
- (f) Work performed by Reading and Writing -RW
- (g) Communicating (Communicating would also include verbal or non-verbal communication)

6. With the aid of the aforesaid prescriptions duly notified, the learned counsel for the fourth respondent has further substantiated his arguments with the aid of the Apex Court judgment in the case of V. Surendra Mohan vs. State of Tamil Nadu & Ors., reported in 2019 (4) SCC 327.

7. We have considered the submissions raised and the issue as to whether the petitioner was extended such a benefit of a Scribe appearing in the examinations by the Public Service Commission in respect of any other posts, cannot by itself be in tandem read as a necessary concomitant to allow the petitioner to claim such a benefit for appearing in the examinations in question. Keeping in view the ratio of the Supreme Court decision, supra, which clearly describes the nature of the duties to be discharged by a Civil Judge (Junior Division) to be such where such concessions may not be permissible, the Public Service Commission itself had prevented the acceptance of any request for a Scribe for appearing in the examinations by way of Clause 16-F, supra.

8. We do not find any arbitrariness or any element of discrimination so as to invoke Article 14 of the Constitution of India in order to grant the relief as prayed for, more so, when

the Recruitment Rules itself make a prescription to that effect.
The prayer made, therefore, cannot be accepted.

The Writ Petition is, accordingly, consigned to records.
No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

- 1.The Secretary,
Tamil Nadu Public Service
Examination Commission,
Chennai.
- 2.The Controller of Examiner,
Tamil Nadu Public Service Commission,
Chennai.
- 3.The Chairman,
Tamil Nadu Public Service Commission,
Chennai.
- 4.The Registrar
High Court of Madras,
Chennai.

AKM/09.01.2020/4P-5C /

सत्यमेव जयते

W.P (MD) No.23691 of 2019

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