

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

WP.No.25538 of 2018

Aswaghosh

...Petitioner

Vs.

1. The Tamil Nadu Public Service Commission,
represented by its Secretary,
Chennai-600 003.

2. The Chief Engineer,
Agricultural Engineering Department,
Nandanam,
Chennai-600 035

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, to direct the respondents to select the petitioner for appointment to the post of Assistant Engineer (Agricultural Engineering) and consequently appoint him in the post of Assistant Engineer (Agricultural Engineering) with all consequential benefits.

For Petitioner : Mr.S.Selvathirumurugan
For Respondents : Mr.M.Loganathan for R1
Mr.V.Kadhirvelu, Spl GP for R2

ORDER

This Writ Petition has been filed, praying for issuance of Writ of Mandamus, direct the respondents to select the petitioner for appointment to the post of Assistant Engineer (Agricultural Engineering) and consequently appoint him in the post of Assistant Engineer (Agricultural Engineering) with all consequential benefits.

2. The case of the petitioner is that he participated in the written examination conducted by Tamil Nadu Public Service Commission/1st respondent herein for appointment to the post of Assistant Engineer (Agricultural Engineering) pursuant to the Notification dated 5.7.2017. According to the petitioner, he belongs to SC community and he was a holder of a degree in B.E. (Mechanical). The grievance of the petitioner is that the

persons secured much less marks than him in the written examination, have been ultimately selected to the appointment. Therefore, he is before this Court, seeking a direction the first respondent/Commission to select the petitioner for the appointment to the post of Assistant Engineer (Agriculture).

3. When the matter is taken up for hearing, on behalf of the first respondent/Commission, a copy of the Notification has been produced in which, in Clause 6(B), it is clearly mentioned the qualifications prescribed for appointment to the subject post. Qualification B.E. (Agriculture) or B.Tech (Agricultural Engineering) or B.Sc. (Agricultural Engineering) is to be given preference than to the Degree holders like B.E. (Mechanical), B.E.(Civil) or B.Tech.(Automobile Engineering), etc. A proviso to Clause 6(B) reads as under:

"Provided that only if sufficient applicants with qualification on item (i) is not available, the applicants in item (ii) will be considered."

4. Learned counsel appearing for the first respondent/Commission would submit that sufficient number of candidates with qualifications in respect of item (i) were available and therefore, on the basis of performance in the written test, they were preferred and appointed.

5. At this, Mr. S.Selvathirumurugan, learned counsel appearing for the petitioner would submit that once competitive examination is conducted by the Commission, the selection is to be only on the basis of marks secured by the candidates and not on any other criteria. Such arguments can hold good in respect of normal selection subject to no preferential category is mentioned. In this case, in the Notification itself, it is clearly said if only candidates with qualifications in regard to item (i) are not available, item (ii) candidates will be considered namely, B.E.(Mechanical), B.E.(Civil), etc. Once a clear distinction has been drawn in the Notification itself, the Commission is well within its right to select the candidates belonging to the first category and when sufficient candidates were available from the first category, those candidates were preferred and appointed. This Court does not find any infirmity in the selection conducted by the TNPSC. The entire contention which is based on marks secured by the petitioner in competitive examination, suffered from misconception due to the above position. In the said circumstances, this Court does not find any merit in the contention that no matter whether he belongs to preferred or non-preferred category, the petitioner must be selected on the basis of his marks secured in the written examination. This Court does not find any iota of merit in view of the specific proviso included in Clause 6(B) of the Notification.

6. For the above said reasons, this Court does not find any merit in the Writ Petition and hence, the same is dismissed. No costs.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

To

1.The Secretary,
Tamil Nadu Public Service Commission,
Chennai-600 003.

2. The Chief Engineer,
Agricultural Engineering Department,
Nandanam,
Chennai-600 035

+1 CC to Mr.M.Loganathan, Advocate sr 58479.

+1 CC to Govt. Pleader sr 58585.

+1 CC to Mr.S.Selvathirumurugan, Advocate sr 58882(24/10/2019)

W.P.NO.25538 OF 2018

KS(CO)
SP(04/09/2019)

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