

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 23.07.2019

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THE HONOURABLE MR. JUSTICE V.PARTHIBAN

WP.No. 31759 of 2018

P.Karthik

.. Petitioner

versus

1. The Chairman,
Tamil Nadu Public Service Commission,
Frazer Bridge Road, VOC Nagar,
Chennai-600 003. ... Respondent

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, to direct the respondent to include the petitioner's Register Number 110503065 also in the list of candidates published on 26.11.2018, calling the candidates for original Certificate Verification and Counselling which is slated to commence from 03.12.2018.

For Petitioner : Mr.I.Jayasingh Manoharan

For Respondents : Mr.M.Devendran

ORDER

This Writ Petition has been filed by the petitioner, praying for issuance of Writ of Mandamus, to direct the respondent to include the petitioner's Register Number 110503065 also in the list of candidates published on 26.11.2018, calling the candidates for original Certificate Verification and Counselling which was slated to commence from 03.12.2018.

2. The respondent/Tamil Nadu Public Service Commission (in short, 'the Commission') issued Notification No.23/2017 dated 14.11.2017, calling for applications to fill up 9351 vacancies in the Tamil Nadu Government Service through a Combined Civil Services Examination -4 (Group-I-IV). The applications were invited only through OnLine mode. In response to the Notification, the petitioner submitted his application through OnLine before the last date which was fixed on 13.12.2017. Thereafter, the petitioner was issued with a Hall Ticket through

the OnLine and he participated in the written examination which was conducted on 11.2.2018. On 30.07.2018, results of the written examination were published and the petitioner checked through the Website and found that he secured 238.50 marks out of 300 marks and thereby stood 5863rd rank in the overall ranking. The petitioner belongs to SC community and his rank in SC category was fixed and assigned 663rd rank. Thereafter, on 30.08.2018, the Commission has sent an SMS to the petitioner, directing him to download Memo for Group IV Certificate verification from TNPSC website and advised him to upload the certificates on or before 18.09.2018. As per the direction, the petitioner went to the Government e-seva centre, Sirkali on 07.09.2018 and uploaded all the relevant documents and also a scanned copy of letter stating that in the application form, his date of birth was wrongly mentioned as 27.09.1989 instead of 27.03.1989. In fact, subsequently, the petitioner verified and found that his original date of birth details were displayed in the website and not the one which was wrongly submitted at the time of application. Therefore, the petitioner was under the impression that the respondent has already considered the contents made in the scanned copy of the letter dated 7.9.2018 which was uploaded along with other relevant documents. Thereafter, on 26.11.2018, the respondent published three separate lists of candidates to be called for original certificate verification/counselling to be held in the office of the respondent commencing from 03.12.2018 for all the posts mentioned in the original notification, based on the results of the written examination and the ranks published on 20.07.2018. Although the petitioner had secured 238.50 marks out of 300 marks and was placed at 5863rd position in the overall ranking and 663rd position in SC/ST category, unfortunately, his Registration number was not included in the list. On enquiry, the petitioner found that the persons who secured lesser marks than him, have been included in the list. Therefore, he sent an E-mail on 27.11.2018, requesting the respondent to rectify the mistake and include his Registration number. However, there was no response to his E-mail and therefore, the petitioner has approached this Court with the prayer as stated supra.

3. This Court while entertaining the Writ Petition earlier, passed an interim order on 4.12.2018 and allowed the petitioner to provisionally participate in the counselling to be held on 18.12.2018, however, directed the Commission to withhold his result till the outcome of the writ petition.

4. Shri I.Jayasingh Manoharan, learned counsel appearing for the petitioner would submit that the petitioner has secured more marks which are sufficient enough for final selection for appointment to Group IV service in general category as well as in the reserved category. According to him, total vacancies

notified were 9351, whereas the rank assigned to the petitioner in the general category is 5863 and therefore, the petitioner is qualified to be appointed by consideration of overall ranking, not to speak of his ranking in his category. According to the learned counsel, a small mistake which was inadvertently made in filling up the form, cannot result in the petitioner losing a valuable right to be appointed in public service. According to him, the mistake of mentioning wrong date of birth, in fact, not material to the ultimate selection as the deference was only a few months.

5. On behalf of the respondent, Mr.M.Devendran, learned counsel entered appearance and a detailed counter affidavit has been filed. In the counter affidavit, it is submitted in para 8 that the Commission has given instructions in the Notification in para 12(M), which reads as under:

"12 (M) Incomplete applications and applications containing wrong claims or incorrect particulars relating to category of reservation/other basic qualification/eligibility wise/age/communal categories/educational qualification/ physical qualification and other basic eligibility criteria will be liable for rejection."

6. Therefore, it is stated that since the petitioner had given wrong information, his candidature was rejected. According to the counter affidavit, all the candidates were given option to rectify any information already furnished through OnLine mode on or before 10.01.2018, but the petitioner failed to avail the opportunity. In the said circumstances, the petitioner cannot claim for appointment as his candidature was not accepted by the Commission. However, the petitioner was allowed to participate in the counselling in view of the interim order of this Court, but his result has been withheld pending finalization of the Writ Petition.

7. Considered the rival submissions advanced by the learned counsels for the parties and perused the materials and pleadings placed on record.

8. The facts as narrated above have not been disputed by the Commission in its counter affidavit nor refuted during the course of oral submissions made by the learned counsel appearing for the Commission. However, the resistance put up by the Commission through its counsel is that the petitioner having mentioned wrong date of birth, is not entitled to be selected for appointment in view of the specific Clause prescribed in the Notification, which is extracted supra. Once the petitioner is admitted to have given wrong information, he lost his right to

be considered for final selection for appointment. This Court is unable to appreciate how such contentions could be accepted when wrong entry of date of birth by the petitioner in his application has no bearing on his ultimate success in the written examination and the ranking assigned to him. Once the wrong date of birth is admittedly immaterial to his performance in the written examination and ranking assigned to him, such mistake which had been inadvertently committed by the petitioner need to be considered liberally instead of sticking to rigidity of the Clause contained in the Notification in para 12(M), which is extracted supra. Incomplete application or applications containing wrong claims may entail disqualification of candidature, but such incomplete application or containing wrong claims must have some nexus to the performance and assignment of ranking to the candidates concerned. In this case, the mistake or wrong entry of date of birth is admittedly immaterial and which event, the Commission cannot be allowed to adopt stern approach and reject the candidature of the petitioner outright.

9. In fact, the petitioner on learning about the mistake committed by him, wanted to salvage the situation and therefore, he had submitted a letter on 7.9.2018, pointing out wrong entry of his date of birth. According to the petitioner, the correct date of birth was actually displayed on the website of the Commission. Therefore, it could be presumed that the content of his letter was considered and the mistake was rectified by the Commission itself. Even otherwise, the minor error in the filling up of the application form cannot result in negation of valuable right of the petitioner to enter into public service, particularly when the petitioner is more than qualified to be finally selected for appointment to Group-IV service. The petitioner being from a reserved community, is entitled to be considered with little more understanding by the Commission, particularly when he had secured a comfortable position which could ultimately result in his automatic selection and appointment even against general category.

10. In the said circumstances, this Court considers that the mistake committed by the petitioner in filling up the application form regarding his date of birth, cannot be construed as wrongful claim as defined in para 12(M) of the Notification and such minor mistake can always be condoned since such mistake cannot be construed as mis-representation or wrong claim in order to gain entry into the public service.

11. For the aforesaid reasons, the Writ Petition stands allowed and the Commission is directed to declare the results of the petitioner in pursuance of his participation in the counselling on 18.12.2018 and if the petitioner is found to be qualified and eligible for appointment either against general

category or against the reserved category as the case may be, his name shall be forwarded to the Government to facilitate his eventual appointment to Group-IV service in pursuant to the Notification dated 14.11.2017. The Commission shall pass appropriate orders in this regard within a period of four weeks from the date of receipt of copy of this order. No costs.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

Suk

TO

1. The Chairman,
Tamil Nadu Public Service Commission,
Frazer Bridge Road, VOC Nagar,
Chennai-600 003.

+2cc to Mr.I.Jayasingh Manoharan, Advocate, S.R.No. 62848

+1cc to Mr.M.Devendran, Standing Counsel, Advocate, S.R.No. 63546

W.P.No.31759 of 2018

RSK (CO)
GN(16/08/2019)

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