



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 30.07.2019

Delivered on : 29.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

WEB COPY

W.P. (MD) No. 16638 of 2019

and

WMP (MD) Nos. 13267, 13268, 13270 & 13271 of 2019

N. Balan

.. Petitioner

Vs.

1. The Tamil Nadu Public Service Commission,
rep. by its Secretary
V.O.C. Nagar,
Chennai.

2. The Secretary to the Government,
Home (Transport) Department,
Fort St. George,
Chennai.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned notification dated 14.02.2018 issued by the first respondent more fully Clause 6 (B) depriving the Diploma awarded by the University under the Deemed University under the University Grants Commissions Act alone and quash the same and consequently direct the respondents to permit the petitioner to attend the interview for the post of Motor Vehicle Inspector Grade II along with other eligible candidates and to consider the appointment of the petitioner on merits and in accordance with law.

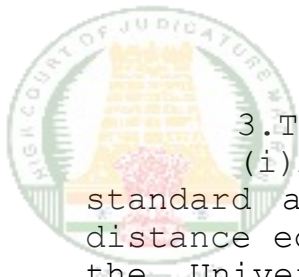
For Petitioner : Mr. Veera. Kathiravan
Senior Counsel

For Respondents : Mr. D. Sivaraman

ORDER

This Writ Petition is filed challenging the impugned notification dated 14.02.2018 issued by the first respondent more fully, Clause 6 (B) and consequently direct the respondents to permit the petitioner to attend the interview for the post of Motor Vehicle Inspector Grade-II along with other eligible candidates and to consider the appointment of the petitioner on merits and in accordance with law.

2. By consent of both parties, the writ petition itself is taken up for final disposal at the stage of admission.



3. The facts of the case, in brief, are stated as follows:

(i) According to the petitioner, he has completed 10th standard and thereafter, completed Diploma in Engineering through distance education at St. Peter University which is recognised under the University Grants Commission. The first respondent issued notification dated 14.02.2018, calling for applications to the post of Motor Vehicle Inspectors Grade-II, wherein educational qualification has been prescribed under Clause - 6(B), which reads as follows:

(i) S.S.L.C

(ii) any one of the following qualifications awarded by the State Board of Technical Education and Training, Tamil Nadu :

A Diploma in Automobile Engineering (3 year course)
or

A Diploma in Mechanical Engineering (3 year course)

(ii) The petitioner has applied for the said post on 23.02.2018 through online and appeared for examination and obtained more than the cut off marks fixed by the first respondent. According to the petitioner, though he possessed all the prescribed qualifications for the post of Motor Vehicle Inspector Grade-II, his name was not found in the selected candidates list. When the said fact was enquired with the first respondent, it was replied that the petitioner has not completed the Diploma in Mechanical Engineering through State Board of Technical Education and Training, Tamil Nadu, as per Clause - 6(B) of the Notification. Challenging the Clause - 6 (B) of the said Notification dated 14.02.2018, the petitioner is before this Court with a direction to the respondents to permit the petitioner to attend the interview for the post of Motor Vehicle Inspector Grade-II.

4. The learned Standing Counsel appearing for the respondents submitted that as per Clause 13 of the Notification, the applicants should fulfil all the eligibility conditions for admission of examination and mere issuance of memo of admission to the applicants, will not imply that his/her candidature has been fully cleared by the respondent/TNPSC. In the present case, based on the details given by the petitioner in the application, he was allowed to participate in the written examination, but during certificate verification, it was found that the petitioner has not fulfilled the prescribed educational qualification and therefore, he was not permitted to attend the oral interview.

5. The learned Standing Counsel would further submit that as per the Notification dated 14.02.2018, the candidate should possess a Diploma issued by the State Board of Technical Education and Training, Tamil Nadu. But the petitioner herein has completed his Diploma through a private education viz., St. Peter's Institute of Higher Education and Research. Since the petitioner has not



completed his Diploma in the State Board of Technical Education and Training, Tamil Nadu as prescribed under Clause 6(B) of the Notification, the candidature of the petitioner was rightly rejected by the first respondent.

6. The learned Senior Counsel appearing for the petitioner would submit that the petitioner has acquired his Diploma from a deemed to be a University, which is recognised by the University Grants Commission. But the impugned notification excludes the diploma holders who are awarded with a diploma by universities under the University Grants Commission and the same deprives the right of the eligible candidates from participating in the selection process. The learned Senior Counsel would further submit that a diploma awarded by the Central Government or any institution by the Central Government is having equal eligibility as per the substitution notification dated 12.06.1989. Therefore, the impugned notification, depriving the diploma holders from the institutions approved by the Central Government is illegal and against law.

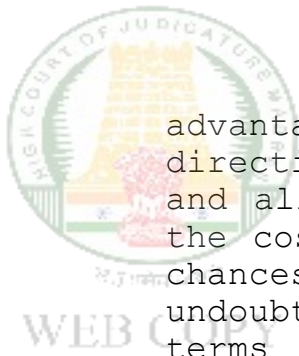
7. According to the petitioner, he has completed his Diploma in St. Peter's University University which is recognised to be a deemed University under the University Grants Commission by the proceedings dated 02.04.2009. Therefore, the petitioner, having equivalent qualification on par with the Diploma granted by the State Board of Technical Education and Training, is eligible to participate in the interview. Under such circumstances, the petitioner is before this Court seeking the aforesaid relief.

8. The learned Senior Counsel, in support of his contention, has relied upon a judgment of the Hon'ble Supreme Court in **M.A.Nos.1795 - 1796 of 2017 [Orissa Lift Irrigation Corp. LTd Vs. Rabi Sankar Patro & Ors]**. The relevant portion of the said judgment is extracted hereunder:

"We, therefore, as a one-time relaxation in favour of those candidates who were enrolled during the academic years 2001-2005 and who, in terms of the judgment, are eligible to appear at the test to be conducted by AICTE, direct:-

a] All such candidates, who wish to appear at the forthcoming test to be conducted by AICTE in May-June 2018 and who exercise option to appear at the test in terms of the judgment, can retain the degrees in question and all the advantages flowing therefrom till one month after the declaration of the result of such test or till 31.07.2018 whichever is earlier.

b] This facility is given as one-time exception so that those who have the ability and can pass the test in the first attempt itself, should not be put to inconvenience. If the candidates pass in such first attempt, they would be entitled to retain all the



advantages. But if they fail or choose not to appear, the directions in the judgment shall apply, in that the degrees and all advantages shall stand suspended and withdrawn. At the cost of repetition, it is made clear that no more such chances or exceptions will be given or made. They will undoubtedly be entitled to appear on the second occasion in terms of the judgment but this exception shall not apply for such second attempt.

c] We direct AICTE to conduct the test in May-June 2018 and declare the result well in time, in terms of our directions in the judgment and this Order. AICTE shall however extend the time to exercise the option to appear at the test suitably."

9. In the aforesaid judgment, the Hon'ble Supreme Court has permitted the eligible candidates to appear at the test to be conducted by AICTE. The said decision is not applicable to the present case, because, in the case on hand, the petitioner had already participated in the examination and thereafter, during certificate verification, it was found that the petitioner has not fulfilled the educational qualification norms and therefore, he was not permitted to participate in the oral interview.

10. At this juncture, the learned Standing Counsel appearing for the respondents drew the attention of this Court to the Government Order in G.O.Ms.No.149, Higher Education (J2) Department dated 22.07.2016, which states that Diploma/B.E.Degree qualification acquired through distance education is not equivalent to the qualification acquired through regular stream and therefore, the diploma acquired by the petitioner from the St.Peter's Institute of Higher Education and Research, through distance education, cannot be considered for the purpose of employment in public services.

11. The learned Standing Counsel has also relied upon the following decisions, in support of his contentions.

(i) 1986 (Supp) SCC 285 - Om Prakash Shukla Vs. Akilesh Kumar Shukla & Ors.

(ii) 1997 (4) SCC 426 - University of Cochin Vs. N.S.Kanjoonjamma and others

(iii) 2007 (8) SCC 644 - Trivedi Himanshu Ghan Shyam Bhai Vs. Ahmedabad Municipal Corporation & Ors.

(iv) 2008 (4) SCC 171 - Dhananjay Malik and others Vs. State of Uttaranchal and others.

12. In the aforesaid decisions, the Hon'ble Supreme Court has categorically held that a candidate, who participated in the selection process without protest, cannot challenge the selection process, once he has become an unsuccessful candidate.



13.The contention of the learned Senior Counsel that the Central Government has substituted the educational qualification for the post of Motor Vehicle Inspector and as per the substitution made, the petitioner is eligible to participate in the interview to be conducted by the respondents, is refuted by the learned Standing Counsel stating that the substitution relied upon by the petitioner came into effect from 08th March, 2019 and the present impugned notification was issued on 14.02.2018. Therefore, the substitution notification cannot be made applicable to the case of the petitioner.

14.I have given my anxious thought to the submissions made on either side and perused the entire materials available on record.

15.Admittedly the petitioner has completed his Diploma through a private institution viz., St.Peter's Institute of Higher Education and Research through distance mode and having the aforesaid qualification, he applied for the post of Motor Vehicle Inspector Grade-II, based on the Notification dated 14.02.2018 and attended the written examination. However, the name of the petitioner was not found place in the selection list published by the first respondent since the petitioner has not obtained his Diploma in the State Board of Technical Education and Training, Tamil Nadu.

16.According to the learned Senior Counsel for the petitioner, the aforesaid Diploma was awarded by a deemed to be a University under the University Grants Commission and therefore, as per the substitution notification, the petitioner is eligible to participate in the interview. The aforesaid contention cannot be accepted for the reason that Clause 6(B) of the Notification clearly prescribes the educational qualification as mentioned supra. Further, the petitioner, having accepted the educational qualification prescribed under Clause 6(B) of the Notification and participated in the selection process without any protest, now, cannot turn around to seek quashment of Clause 6(B) of the Notification.

17.The yet another contention of the petitioner that the Central Government has substituted the educational qualification for the post of Motor Vehicle Inspector and the Diploma awarded by any institution, recognised by the Central Government or State Government, is eligible for consideration, also falls to ground for the simple reason that the substitution relied upon by the petitioner came into force only on 08.03.2019, whereas, the Notification was issued on 14.02.2018.

18.It is pertinent to note that G.O.Ms.No.149, Higher Education (J2) Department dated 22.07.2016 clearly contemplates that Diploma/B.E.Degree qualification obtained through distance education is not equivalent to the qualification obtained through regular stream. Therefore, as per the said Government Order, the Diploma



acquired by the petitioner through distance education cannot be considered for the purpose of employment in public services.

19. Thus, in view of the foregoing reasons, the relief sought by the petitioner cannot be granted. Accordingly, the writ petition is dismissed. No costs. Consequently, WMP(MD)Nos.13267, 13268, 13270 & 13271 of 2019 are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Tamil Nadu Public Service Commission,
rep.by its Secretary
V.O.C.Nagar,
Chennai.

2. The Secretary to the Government,
Home (Transport) Department,
Fort St. George,
Chennai.

+1 CC to Mr.D.SIVARAMAN, Advocate SR-84230.

+1 CC to M/s.VEERA ASSOCIATES, Advocate SR-84369.

Order made in
W.P. (MD) No.16638 of 2019
29.08.2019

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