



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.A. (MD)No.1143 of 2019
and
C.M.P (MD) .No.10098 of 2019
against
W.P (MD) .No.24759 of 2018

The Tamil Nadu Public Service Commission
rep., by its Secretary
Frazer Bridge Road,
V.O.C.Nagar, Park Town,
Chennai-600 003.

... Appellant/Respondent No.1

Vs.

1.Iniyavan

... 1st Respondent/Petitioner

2.The Director of Horticulture and Plantation
Crops,
Chennai-5.

...2nd Respondent/2nd Respondent

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent to set aside the order passed in W.P(MD).No.24759 of 2018 dated 07.01.2019.

Prayer in WP(MD). 24759/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus, directing the respondents to issue the order of selection/appointment to the petitioner (Registration No.100001061) in the post of Assistant Horticultural Officer for the year 2016-2017 in the Tamil Nadu Horticultural Subordinate Service, pursuant to his success in the selection process initiated under the selection notification No.10/2018, dated 25.05.2018, without rejecting his candidature on the ground that he had committed an inadvertent mistake in mentioning the date of birth as 30.04.1997 instead of 30.03.1997 in the application form, with all attendant and the consequential benefits.



For Appellant

: Mr.D.Sivaraman

For R-1

: Mr.N.Dilip Kumar

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JUDGMENT

[Judgment of this Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.D.Sivaraman, learned counsel appearing for the appellant and Mr.N.Dilip Kumar, learned counsel appearing for the first respondent.

2.The appellant is the 'Tamil Nadu Public Service Commission' (hereinafter referred to as 'TNPSC' for the sake of brevity) and they were aggrieved by the order of direction in W.P(MD).No.24759 of 2018 dated 07.01.2019 filed by the first respondent herein.

3.The first respondent sought for issuance of Writ of Mandamus to direct the appellant to issue selection/appointment order to the first respondent in the post of Assistant Horticulture Officer for the year 2016-2017 without rejecting his candidature on the ground that his date of birth was wrongly mentioned as 30.04.1997 instead of 30.03.1997 which was an inadvertent error. The appellant/TNPSC would contend that they are fully justified in rejecting the application of the first respondent as a wrong claim and in this regard, Mr.D.Sivaraman, learned counsel has referred to para No.14 (10) of the notification. Further, it is submitted that in terms of paragraph No.12(L) of the notification, any incomplete applications and applications containing wrong claims are liable for rejection. Further, the learned counsel has referred to the declaration given by the candidates through online application, wherein he has solemnized declaration given by the candidate with all particulars furnished in the application are true and correct and if it is found to be false or incorrect, action can be taken by TNPSC for rejection of the application.

4.The learned Writ Court, taking note of the submissions made by the learned counsel for the first respondent/writ petitioner that there are several unfilled vacancies and though there was a mistake, issued direction to consider the first respondent for appointment de hors the mistake committed by him, if there are vacancies in the post sought for by the first respondent/writ petitioner. The learned writ Court has also fixed a time frame, within which the order has to be implemented.

5.No doubt, the dispute is that there has been a mistake in entry of the petitioner's date of birth and correct date of birth was ascertained by TNPSC during the certificate verification process. The conditions stipulated in the notification is binding



on the candidates and the candidates cannot contend that the condition cannot be enforced on the candidates after having been submitted an application for recruitment pursuant to such notification. However, in our considered view, the case on hand appears to be a very unique case and within which there is no advantage which will accrued to the first respondent/writ petitioner. In fact, if the incorrect date of birth was mentioned, there will be an advantage to the first respondent/writ petitioner. Therefore, in our view the candidature of the first respondent/writ petitioner need not be invalidated on the ground stated by the appellant. We make it clear that this observation should not be taken to be a precedent or laid down a legal proposition and observations have been made purely considered the facts of the case. Only for such reason, we are not inclined to entertain this appeal. Accordingly, this Writ Appeal is dismissed. Time for implementation of the order passed by the Writ Court is extended for a period of three weeks from the date of receipt of a copy of this judgment. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

rmk

To
The Secretary,
Tamil Nadu Public Service Commission
Frazer Bridge Road,
V.O.C.Nagar, Park Town,
Chennai-600 003.

+1 CC to M/s.N.DILIP KUMAR, Advocate (SR-96035[F] dated 05/11/2019)

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-96187[F] dated 05/11/2019)

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