



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P.(MD).No.15567 of 2014
M.P.(MD).Nos.1 to 3 of 2014

S.Abirami

.. Petitioner

Vs.

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

2.The Controller of Examinations,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
V.O.C.Nagar, Park Town,
Chennai - 600 003.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorafified Mandamus, calling for the impugned notification, dated 01.09.2014 issued by the 2nd respondent relating to Scientific Assistant Grade - II in the Tamil Nadu Forensic Science and Subordinate Service (2012-13) and quash the same and consequently directing the Respondents 1 and 2 herein to conduct the Oral Test as per original notification, dated 28.03.2013 issued by the 1st respondent for selection to the post of Scientific Assistant Grade - II, in the Tamil Nadu Forensic Science and Subordinate Service (2012-13) without any deviation.

For Petitioner : Mr.D.Srinivasa Raghavan

For Respondents : Mr.K.K.Senthil for R1 and R2

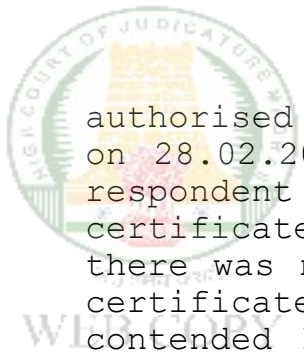


ORDER

Challenging the notification, dated 01.09.2014, issued by the second respondent for the post of Scientific Assistant Grade - II, in Tamilnadu Forensic Science and Subordinate Service (2012-13) and to direct the respondents 1 and 2 to conduct the Oral Test as per original notification, dated 28.03.2013, issued by the 1st respondent for selection to the post of Scientific Assistant Grade - II, in the Tamil Nadu Forensic Science and Subordinate Service (2012-13), this writ petition is filed.

2.The learned counsel for the petitioner states that the petitioner has the required qualification for the post of Scientific Assistant Grade - II. By the notification, dated 28.03.2013, applications were invited from eligible candidates for appointment to the post of Scientific Assistant Grade - II, (2012-13) which comes under Tamilnadu Forensic Science and Subordinate Service. 33 vacancies were notified by the said notification including two carried forward vacancies. The number of vacancies marked for B.C community is 7. It is stated by the petitioner that as per recruitment notification, dated 28.03.2013, the selection procedure consisted of two stages. One is the written examination, the other is the oral test. As per Clause 21(b) of the instructions to the candidates, after written examination, the persons who have cleared the written examination are supposed to be called for the oral test at the ratio of 1:2. It is admitted that if the reserved posts exceeds more than 5, the number of persons called for oral test is three times the number of vacancies. The total marks including the written test and oral test is 570.

3.It is admitted that the candidates who secured 171 out of 570, in case of SC/ST/MBC/BC and BCMs are eligible for Selection and in case of others the minimum mark fixed was 228. After the written examination was over, the second respondent published a list of numbers of provisionally admitted candidates for certificate verification in internet on 28.02.2014. Petitioner's name is found place. The second respondent has instructed the persons whose numbers are found in the list of provisionally admitted candidates to send their certificates to the Commission on or before 17.03.2014. The petitioner states that she personally went to the Commission's office on 15.03.2014 and dropped all her certificates in the box provided in the Commission Office. However, the petitioner was not called for by the respondent either for certificate verification or for the oral test as per the original notification. It is contended by the petitioner that in deviation of the original recruitment notification, the respondents have included new candidates in the list of provisionally selected candidates so as to deny fair opportunity to the petitioner. It is also stated by the petitioner that the second respondent is not



authorised to short list the candidates which were published earlier on 28.02.2014. It is contended by the petitioner that the second respondent as per the notification was authorised to call for certificate verification before conducting the oral test. Since there was no provision authorising the second respondent to conduct certificate verification before conducting oral test, it is contended by the petitioner that the entire process of selection done by the second respondent to short list the candidates for oral test is contrary to the recruitment notification. To sum and substance, based on the deletion of petitioner's number in the list of candidates eligible for certificate verification and oral test, the petitioner has come forward with the writ petition.

4.As it was recorded earlier, the petitioner's main contention is about short list of candidates after the first list was published, on the ground that the procedure originally framed for recruitment cannot be modified in the middle of selection process. It is further stated that there was no rationale behind further filtration of candidates who have cleared the written examination. The addition of new members whose number were not found in the original list published by the respondent is also cited as a serious irregularity in the process of selection. The respondents filed a counter, *inter alia* pointed out that 165 candidates including the petitioner were asked to send by post or upload their certificates for verification. After verification, it is stated that some of the candidates were found ineligible. It is stated that in respect of ineligible candidates the provisional admission to certificate verification was cancelled. It is admitted that a list of 165 candidates was published by the respondent on 28.02.2014. However, it is stated that candidates were short listed for provisional admission to oral test in the rate of 1: 2 or 1: 3 based on the rule and reservation, number of vacancies and based on the procedure of selection adopted. Since the candidates for oral test were short listed by adopting 1 : 2 or 1 : 3 ratio, the respondents have submitted that due to rejection of certain candidates at the time of certificate verification few persons from the bottom line were considered. When the candidates were short listed for oral interview in the ratio 1:2 or 1:3, petitioner's name was not found in the list of candidates provisionally selected for oral test.

5.The learned counsel appearing for the petitioner relied upon the clause 21 of the original recruitment notification. However, learned counsel appearing for the respondent referred to Clause 13 F of Tamilnadu Public Service Commission notification, dated 28.03.2013 which reads as follows:

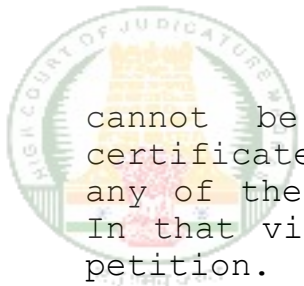
"13.f. Candidates are not required to submit along with their application any certificates in support of their claims regarding Age, Educational Qualifications, Experience, Community Certificates



and Certificates regarding their Physical Disability, etc. They should be submitted when called for by the Tamil Nadu Public Service Commission. The candidates applying for the examination should ensure that they fulfill all the eligibility conditions for admission to the Examination. Their admission at all the stages of examination for which they are admitted by the Commission viz., Main Examination in Computed Based Test Format and Oral Test will be purely provisional, subject to their satisfying the prescribed eligibility conditions. If on verification at any time before or after the Main Examination in Computer Based Test Format and Oral Test, it is found that they do not fulfill any of the eligibility conditions, their candidature for the examination will be cancelled by the Commission."

6.The whole process of selection was according to the recruitment rules and there is no deviation from the recruitment notification which was originally issued by the respondent. The contention of the respondent that there was short listing of candidates by certificate verification before oral test can be accepted and this procedure is not in variation of the recruitment notification originally issued. It is to be seen that the candidates selected provisionally after written examination was in the ratio of 1:5. It is not in dispute that the petitioner herself has admitted that the selection of candidates for oral test was either 1:2 or 1:3 depends upon the number of posts in the reserved categories. In such circumstances, the fact that petitioner's name was not included in the list subsequently published may not indicate that there is any irregularity in the selection process. The learned counsel for the respondent submitted that the petitioner has secured only 280.5 marks out of 500. 70 marks has been awarded to oral test. The petitioner belongs to BC communal category and therefore she was considered under BC Women category. Since the respondent has to draw a line to field only selected number of candidates for oral test, there was occasion for short listing of candidates by fixing cut of mark. It is stated that the respondent fixed the cut of marks for BC (General) Biology as 289.50 marks and BC (woman) Biology as 286.50 marks. Since the petitioner has not come within the cut of mark, it is stated by the respondent, that there is no scope for entertaining the petitioner's candidature further for the oral test.

7.The submission of learned counsel for the respondent on merits is not seriously disputed by the counsel for the petitioner. Though the petitioner's counsel still reiterated that the short list of candidates is not as per the original recruitment notification, this Court is unable to accept the contention. Going by the sequences of events and the procedure followed by the respondent it



cannot be contended that the short list of candidates for certificate verification and for conducting oral test is contrary to any of the rules or procedure as per the recruitment notification. In that view of the matter, this court find no merits in the writ petition.

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8. Accordingly, this writ petition is dismissed. However, no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar (CS)

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To

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

2. The Controller of Examinations,
Tamil Nadu Public Service Commission,
Frazer Bridge Road, V.O.C. Nagar, Park Town, Chennai - 600 003.

+1 CC to M/s. D. SRINIVASARAGAVAN, Advocate (SR-97085[F] dated
08/11/2019)

+1 CC to M/s. K. K. SENTHIL, Advocate (SR-97336[F] dated 11/11/2019)

W.P. (MD). No. 15567 of 2014
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