



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 02.08.2019
Pronounced on : 29.08.2019

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P(MD) No.12149 of 2018
and
WMP(MD)Nos.11059 and 11060 of 2018

M.Karthikeyan

.. petitioner

vs.

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

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus by calling for the entire records pertaining to the order passed by the respondent downloaded on 03.06.2018 from the office website of the respondent in connection with the recruitment for filling up the posts of Motor Vehicle Inspector -II (Post Code 2119) by the respondent pursuant to his Advertisement No.489 and Notification No.03/2018 dated 14.02.2018 and quash the same and consequently direct the respondent to accept the petitioner's online application uploaded on 27.02.2018 for all purposes in connection with the aforesaid recruitment process and treat the same as valid.

For Petitioner : Mr.R.Anand

For Respondent : Mr.D.Sivaraman

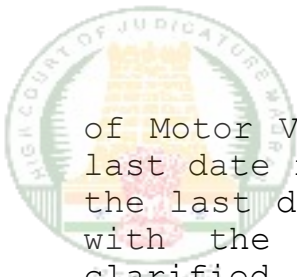
ORDER

This writ petition has been filed to quash the order passed by the respondent on 03.06.2018 in connection with the recruitment for filling up the posts of Motor Vehicle Inspector -II (Post Code 2119) pursuant to Advertisement No.489 and Notification No.03/2018 dated 14.02.2018 and consequently direct the respondent to accept the petitioner's online application uploaded on 27.02.2018 for all purposes in connection with the aforesaid recruitment process and treat the same as valid.

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

<https://hcservices.ecourts.gov.in/hcservices/>

(1) The respondent, vide Notification No.3/2018 dated 14.02.2018, called for applications so as to fill up the vacancies



of Motor Vehicle Inspector - II. As per the said notification, the last date for submitting the online application is on 13.03.2018 and the last date for submitting the attested copies of documents along with the online application is on 25.03.2018. Further it is clarified in the aforesaid notification that the candidates whose documents are satisfactorily available, would be called for written examination, scheduled to be held on 10.06.2018.

(ii) In the aforesaid notification, clause 17(a) deals with submission of online application, which reads as follows:

(a) The online application can be submitted upto 13.03.2018 till 11.59 pm., after which, the link will be disabled. The copies of certificates should be submitted on or before 25.03.2018 at 05.30 pm.

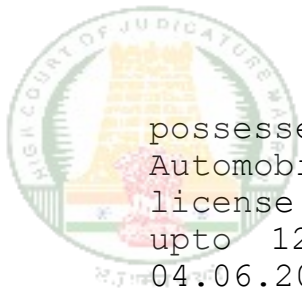
3. The said notification has informed two modes for submission of application, in which, the candidates who want to submit the application through post, will have to follow Clause No.15 of the said notification, which says as follows:

"15. The candidates must send copies of all the required documents mentioned in Annexure IV of the notification along with print out of online application, either by post or in person on or before 25.03.2018. The name of the post, Notification Number and notification date should be mentioned clearly on the envelope. If the required certificates are not received in time, the online application will be summarily rejected without any further notice."

4. According to the petitioner, he submitted his application through online on 17.02.2018, therefore, the aforesaid clause - 15 will not have application to the petitioner and he has to follow the instructions given in Clause 17(a) of the said notification. According to the petitioner, the application was submitted through online and he went to the office of the respondent for submission of the required documents mentioned in the notification. It was informed by a staff of the respondent office to drop the documents into a box fixed in the respondent office, and accordingly, the petitioner did the same. Subsequently the petitioner received a communication from the respondent saying that the petitioner's application was rejected on the ground that he has not submitted the required documents to the respondent/TNPSC.

5. The respondent has filed a detailed counter affidavit, refuting the allegations made by the petitioner as stated below:

"5. It is further submitted that the petitioner candidate belonging to DNC category claiming fee concession had submitted his online application on 27.02.2018 to the post of Motor Vehicle Inspector, Gr.II and claimed of having



possessed SSLC qualification on 01.06.2005, Diploma in Automobile Engineering on 18.01.2010 and valid driving license No.TN69Z20070003650, dated 13.11.2007, which is valid upto 12.11.2027 for non-transport vehicle and valid upto 04.06.2020 for transport vehicle. He has further claimed in his online application of having work experience in both workshop (major & minor) gained at RNR Mechanical Work, Tuticorin from 01.04.2013 to 31.01.2015 and had gained driving experience at OM Muruga transport, Kovilpatti from 19.01.2016 & 27.04.2017.

6) It is submitted that para 15 of the Notification reads:

The candidates must send copies of all required documents mentioned in Annexure - IV of the notification along with print out of online application, either by post or in person on or before 25.03.2018. The name of the post, Notification No. and the notification date should be mentioned clearly on the envelope. if the required certificates are not received in time, the online application will be summarily rejected without any further notice."

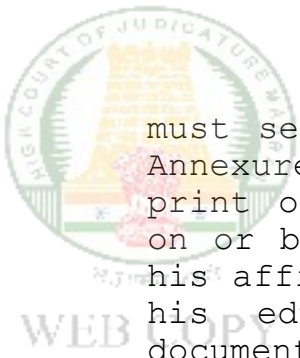
Para - 7 of the Notification reads as follows:

(a) The online application can be submitted upto 13.03.2018 till 11.59 p.m. after which the link will be disabled. The copies of certificates should be submitted on or before 25.03.2018 05.30 pm.

(b) The print out of online application along with copies of supportive documents for all claims should be sent to the Commissioner's office so as to reach the office on or before 25.03.2018 05.30 pm.

7. It is further submitted that the petitioner in para - 4 of his affidavit has submitted that he had personally come to the Commissioner's office on 20.03.2018 and dropped the copies of certificate along with the copy of online application in the drop box on the same day, which appear to be fabricated since the physical copies of all his documents were received at chairman's chamber only on 08.06.2018 with a political recommendation as covering letter in the printed form and nowhere in the said letter, it was mentioned that the candidate has dropped the application on 20.03.2018 in the drop box (as claimed by the petitioner) which again stands testimony to the fact that the candidate had not dropped the copies in the drop box on 20.03.2018.

10. Moreover, para 16 of the Notification clearly mandates that only the 'certificate on experience' in the format stipulated in Annexure II should be uploaded and para 15 of the notification clearly mandates that the candidates



must send copies of all the required documents mentioned in Annexure - IV (SSLC, HSC, Diploma, LS, LCC etc.,) along with print out of online application either by post or in person on or before 25.03.2018. Whereas the petitioner in para 4 of his affidavit had mentioned that he had scanned all copies of his educational certificates as well as other related documents and uploaded them in the website, which is an unnecessary act on his part."

6.The learned Standing Counsel for the respondent, based on the aforesaid counter affidavit filed by the respondent submitted that as per Clause - 15 of the Notification, the petitioner has not produced all the required documents along with print out of online application either by post or in person, therefore, the petitioner's application was rightly rejected on the ground that no physical copies of relevant documents were produced by the petitioner before the last date i.e. 25.03.2018. Under such circumstances, the relief sought by the petitioner cannot be granted.

7.The learned counsel for the petitioner denied the averments made in the counter affidavit filed by the respondent, more particularly, paragraph No.7, with respect to the political recommendation letter. Therefore, this Court, by order dated 31.07.2019, directed the petitioner to file a reply affidavit in respect of the allegations made in the counter affidavit filed by the respondent. Accordingly, the petitioner has filed a rejoinder affidavit stating that he had no knowledge at all about the political recommendation letter and the same would have been sent by any of the person who had good faith on the petitioner.

8.In so far as the another contention of the respondent that the experience certificate submitted by the petitioner is not in consonance with the prescribed format as provided in Annexure - II is concerned, the petitioner has submitted the certificate, containing all the requirements, such as, name of the work shop, service period as well as the salary being paid etc., Under such circumstances, the petitioner has fulfilled all the requirements as prescribed in the Notification.

9.According to the petitioner, as per the Notification issued by the respondent/TNPSC, the required documents have been dropped by the petitioner in the box on 20.03.2018. But the respondent has not accepted the petitioner's online application uploaded on 27.02.2018, which is per se illegal and contrary to the instructions given by the respondent in the Notification. Further, the learned counsel for the petitioner, relied upon a decision of the Division Bench of this Court reported in 2006 (5) CTC 529 [A.Rajapandian Vs. State of Tamil Nadu, rep. by its Secretary, Department of Animal Husbandry, Fort St. George, Chennai and others]. The relevant paragraph of the said decision is extracted hereunder:



"19.It is pertinent to note that the earlier advertisement, a copy of which is produced at Page No.1 of the paper book, specifically requires the production of the registration certificate issued by the Veterinary Council. No such requirement is stipulated in the present Notification/Advertisement. Moreover, it is not disputed by the Commission that the petitioners are duly registered Veterinary Assistant Surgeons under Tami Nadu Veterinary Council prior to the date of Notification/Advertisement. The non-enclosure of the Registration Certificate issued by the Veterinary Council, which was not specifically required to be produced along with the application either in the Notification/Advertisement or in the Information Brochure or in the Check List cannot be put against the petitioners for rejecting their applications.

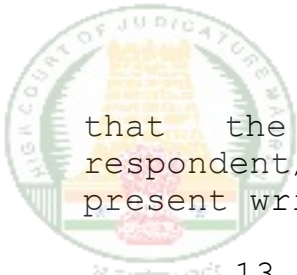
23.Consequently, this batch of writ petitions is liable to be allowed. Since these candidates have taken the examinations under the orders of this Court, there will be no difficulty for the TNPSC to publish their results along with other candidates and proceed with the selection process immediately. Considering that the issue had taken almost two years, it is expected that the TNPSC must act expeditiously and in any event, complete the process of selection within a period of three months from today."

10.The aforesaid decision is not applicable to the facts of the present case on hand. In the aforesaid case, the applications submitted by the petitioners therein were rejected for the reason

that "OMR application not signed / Declaration column not signed / non production of Veterinary Council Registration Certificate". As per Notification, there is no specific column found for production of those documents. Therefore, for the aforesaid reasons, this Court allowed the writ petitions with a direction to the TNPSC to complete the process of selection within a period of three months. In the present case on hand, there is a specific Clause in the Notification in respect of submission of the documents along with online application. Therefore, the aforesaid decision is not applicable to the facts of the present case.

11.According to the respondent, a recommendation letter dated 08.06.2019 was addressed by the District Secretary of a political party to the respondent and that itself is a ground to reject the petitioner's application. Even a perusal of the said letter would disclose that no where it is stated in the letter that the petitioner has produced the required documents on 20.03.2018.

12.As per Clause - 15 of the Notification, the candidate should send copies of the required documents along with the print-out of online application either by post or in person. But, no material or any other proof has been filed before this Court to show



that the petitioner has furnished the documents to the respondent/TNPSC on 20.03.2018 and the petitioner has filed the present writ petition on 06.06.2018.

13.The learned Standing Counsel has relied upon a decision of the Hon'ble Supreme Court in Bedanga Talukdar V. Saifudullah Khan & Ors. reported in AIR 2012 Supreme Court 1803, wherein, it is stated that selection procedure mentioned in the Advertisement should be scrupulously followed and no relaxation can be given, unless it is mentioned in the Advertisement.

14.Therefore, no convincing reason is adduced by the petitioner to satisfy this Court that the writ petitioner has submitted the documents along with online application on the last date of submitting the documents as per the notification issued by the respondent and in the light of the aforesaid decision of the Hon'ble Supreme Court in Bedanga Talukdar V. Saifudullah Khan & Ors., this Court finds no reason to grant the relief to the writ petitioner as prayed in the writ petition. Thus, the writ petition is devoid of merits and the same is liable to be dismissed.

15.In fine, this writ petition stands dismissed. No costs. Consequently, WMP(MD)Nos.11059 and 11060 of 2018 is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar

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

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-84231[F] dated 29/08/2019)

order made in
W.P(MD) No.12149 of 2018
29.08.2019

MJ
MS/12.09.2019/6P.3C