



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.07.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.20372 of 2015

S.Ganeshkumar

... Petitioner

vs.

1.The Secretary

Tamil Nadu Public Service Commission
V.O.C.Nagar, Frazer Bridge Road
Park Town, Chennai

2.The Controller of Examinations

Tamil Nadu Public Service Commission
V.O.C.Nagar, Frazer Bridge Road
Park Town, Chennai

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the 2nd respondent to declare the full fledged results including marks secured by all candidates appeared for the Written Examination held on 26.08.2012 and the Oral Test held on 05.03.2015 for the post of Motor Vehicle Inspector Grade II Tamil Nadu Subordinate Service 2011-1012 on the basis of the Petitioner representation date 10.04.2015.

For Petitioner : Mr.R.Gurusamy

For Respondents : Mr.K.K.Senthil

ORDER

The relief sought for in the present writ petition is for a direction to to the second respondent to declare the full-fledged results, including the marks secured by all the candidates appeared for written examination held on 26.08.2012 and the oral test held on 05.03.2015, for appointment to the post of Motor Vehicle Inspector Grade-II, in Tamil Nadu Subordinate Service 2011-2012.

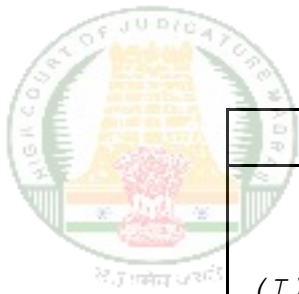


2. The learned counsel appearing for the writ petitioner vehemently contended that the writ petitioner is fully qualified and eligible for appointment to the post of Motor Vehicle Inspector Grade-II. Pursuant to the recruitment notification, the writ petitioner has participated in the process of selection. The writ petitioner was successful in the written examination. The writ petitioner is possessing all the requisite qualifications, including the educational qualifications and experience for appointment to the post of Motor Vehicle Inspector Grade-II. However, on account of *mala fide* intention on the part of the respondents and on account of the fact that there were certain irregularities and illegalities in the process of selection, the case of the writ petitioner was not considered and consequently, he was not appointed to the post of Motor Vehicle Inspector Grade-II. Thus, the writ petitioner is constrained to move the present writ petition.

3. The learned counsel for the writ petitioner states that the case of the writ petitioner was not considered on account of the *mala fide* intention on the part of the second respondent. The process of selection was not conducted in a transparent manner. On account of the fact that the principles of transparency had not been adopted in the process of selection, the writ petitioner was denied with his opportunity to get appointment. Thus, the writ petitioner must be appointed as Motor Vehicle Inspector Grade-II by issuing appropriate direction in the present writ petition.

4. The learned counsel appearing for the respondents disputed the above contentions by stating that pursuant to the notification, the writ petitioner appeared in the process of selection and appeared in the written examination held on 26.08.2012. The educational qualification, prescribed as per the recruitment notification as on 25.06.2012, is extracted hereunder:

"Candidates should possess the following or its Equivalent Qualification on the date of this notification (i.e.25.06.2012).



Qualification	Experience
(I) Minimum General Educational Qualification. (as defined in para 7 of Commission's Instructions to Candidate) AND (II) Any one of the following Qualifications (3 years course) awarded by the State Board of technical Education and Training, Tamil Nadu. A Diploma in Automobile Engineering. OR A Diploma in Mechanical Engineering	(I) Experience of having worked for a period of not less than none year both on vehicles fitted with Petrol Engines and vehicles fitted with Diesel engines on a full time basis in an Automobile workshop which undertakes repairs of Light Motor Vehicles, Heavy Goods Vehicles and Heavy Passenger Motor Vehicles. AND (II) Must hold a Driving Licence Authorising him to Drive Motor Cycle, Heavy Goods Vehicles and Heavy Passenger Motor Vehicles. AND (III) Must have experience in driving Heavy Transport Vehicles for a period of not less than six months.
Provided that other things being equal, preference shall be given to those who possess Post Diploma in Automobile Engineering awarded by the State Board of Technical Education and Training, Tamil Nadu.	

Explanation:-

"Automobile Workshop" shall mean

A. An Automobile Workshop owned by the Government or the State Transport Corporation.

B. An Automobile Workshop recognized or approved or certified by the Transport Commissioner or the Director, Motor Vehicles Maintenance Department for carrying out all kinds of repairs.

Note:

(i) The Diploma qualification prescribed should have been obtained after passing the SSLC/HSC."

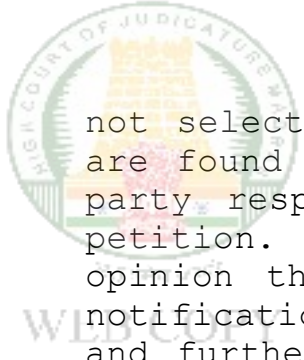
5. It is further stated that the written examination for recruitment to the post of Motor Vehicle Inspector Grade-II was held on 26.08.2012 and the list of register numbers of 42 candidates, who were provisionally admitted for oral test, was



published on 16.02.2015. Based on the marks secured by the candidates in the written examination, by applying the rule of reservation of appointment, number of vacancies, possession of prescribed educational / other qualification as mentioned in the notification and also based on bio-data particulars furnished, the candidates have been provisionally admitted to oral test in the ratio of 1:2 / 1:3 (when the vacancy for a communal category is less than 5, 1:3 ratio and when the vacancy for a communal category is 5 and more, 1:2 ratio is being followed as a rule). The application of the writ petitioner was rejected for not possessing the required workshop experience and driving experience as required under the rules and was not considered for further selection process.

6. It is further stated that as per the procedures in vogue, the marks obtained by the candidates, who were not admitted to oral test, would be published only after completion of the entire selection process and after forwarding the list of candidates selected to Head of Department concerned. The writ petitioner, in his application, under the column educational qualification, has mentioned as degree in mechanical engineering. But, in the column for subject for appearing for the competitive examination, he has chosen the subject automobile engineering. Hence, hall-ticket was sent to him admitting him to write the subject automobile engineering and he has written the exam in the automobile engineering. After a thorough scrutiny of his application, it was found that he does not possess degree in automobile engineering and the workshop experience as prescribed in the notification and also he does not possess driving experience, which are essential and prerequisite qualifications. Hence, his application has been rejected. Therefore, his case was not considered for oral test and also no representation, dated 10.03.2015, as claimed by the writ petitioner was received in the office.

7. In view of the reasons stated above, the learned counsel for the respondents contended that the writ petitioner was declared as he was not possessing the requisite qualifications, as per the notification issued for appointment to the post of Motor Vehicle Inspector Grade-II. This apart, this Court is of the considered opinion that in respect of the allegations of *mala fide*, the authority against whom such allegations are raised, also has not been impleaded as party respondent in his personal capacity in the present writ petition. In respect of the allegations of *mala fide*, the person, who is approaching the Court, should substantiate the allegations by impleading the authority concerned in person. In the absence of any such procedures to be followed, this Court cannot consider the case of the writ petitioner on the ground of *mala fide* intention. The allegations of *mala fide* are to be established, so as to prove that there is a personal bias or personal motive in the matter of



not selecting the writ petitioner. However, no such allegations are found nor any such authority competent has been impleaded as party respondent in his personal capacity in the present writ petition. This being the factum, this Court is of the considered opinion that now, after a lapse of six years from the date of notification, the case of the writ petitioner cannot be considered and further, as per the respondents, the writ petitioner was not possessing the requisite qualifications for appointment to the post of Motor Vehicle Inspector Grade-II.

8. Under these circumstances, the writ petition is devoid of merits and the same is dismissed. No costs.

Sd/-

Assistant Registrar (AD-I)

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Sub Assistant Registrar (CS)

TO

1.The Secretary

Tamil Nadu Public Service Commission
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