



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.21367 of 2019

K.Rukmani

... Petitioner

Vs.

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

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the respondent in his proceedings in Memo No.6014/PSD-D1/2018 dated 24.08.2019 and quash the same and consequently issue appointment order in pursuant to the Counselling held on 11.10.2018.

For Petitioner : Mr.AL.Kannan
For Respondent : Mr.K.K.Senthil for TNPSC

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent in his proceedings in Memo No.6014/PSD-D1/2018 dated 24.08.2019, and quash the same and consequently, issue appointment order in pursuant to the Counselling held on 11.10.2018.

2.The petitioner, in respect of notification issued by the respondent, applied for the post of Assistant and Personal Clerk included in Combined Civil Service Examination II [Group II-A] non-interview post for 2017-2018. She was provisionally selected for the post of Assistant in (Other than Law and Finance Department) Secretariat. At the time of submitting the application, the petitioner was working as Sales Woman temporarily in TN SPL 146, Boothalapuram Primary Agricultural Co-operative Credit Society. The respondents called upon the petitioner to produce the No Objection Certificate from the Society. The petitioner produced the No Objection Certificate. In spite of the same, the petitioner was not issued with any appointment order. The petitioner sought for information under Right To Information Act. There was no response from the respondent. She filed appeal, dated 25.03.2019, under



Right to Information Act to the Appellate Authority. The Appellate Authority has furnished the informations stating that the file was forwarded to the Commission, for further action. The petitioner made representation to the respondent on 26.02.2019, but there was no response. The petitioner filed a writ petition in W.P(MD) No.13744 of 2019 before this Court. This Court, by order dated 26.06.2019, directed the respondent to consider the representation made by the petitioner dated 26.02.2019, within eight weeks from the date of receipt of a copy of that order.

3. The respondent by memo No.6014/PSD-D1/2018, dated 22.06.2019, stating that as to why the provisional selection of the petitioner should not be cancelled for the reason that the petitioner while applying the Group-II-A post through online, suppressed the fact that she was worked as Sales Woman in the Co-operative Society. The respondent sought information from the Deputy Registrar of Co-operative Society, Kovilpatti, with regard to employment of the petitioner. The Deputy Registrar, Kovilpatti, in his letter in Na.Ka.3429/2017 Ve.Ka.Thi. Dated 09.03.2019, informed that the petitioner worked as a Sales Woman temporarily and the said post is not a Government Job. The respondent, without considering the reply given by the Deputy Registrar of Co-operative Society, Kovilpatti, cancelled the selection of the petitioner and also debarred the petitioner for one year for writing examination in the respondent Commission. Challenging the said order, the petitioner has come out with the present writ petition. The learned counsel appearing for the petitioner submitted that the order passed by the respondent is illegal and invalid and prayed for allowing the writ petition.

4. Mr.K.K.Senthil, learned counsel appearing for the respondent contended that the petitioner suppressed her employment as Sales Woman in a Co-operative Society when she applied for the post through online. As per Brochure 19(i) b(ii) of notification, instructions issued to the candidates, the petitioner is disqualified and she is debarred. The impugned memo is valid and legal and prayed for dismissal of the writ petition.

5. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and perused the materials available on record.

6. From the materials on record, it is seen that after selection of the petitioner, the respondent cancelled the said appointment and debarred the petitioner, for one year. According to the respondent, the petitioner has suppressed her employment in the Co-operative Society and has violated Brochure 19(i) b(ii) of the notification, the instructions given to candidates.

7. Brochure 19(i)b(ii) of the notification, reads as follows:-

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



- (ii) Suppression of material information regarding
- (a) Previous appearances or availing free chances, employment in Government of Local Bodies, Public Corporations etc.,
 - (b) Criminal cases, Arrests, Convictions debarment or disqualification by Union Public Service Commission/State Public Service Commissions.
 - (c) Participation in agitation or any political organization.
 - (d) Candidature in election for Parliament/State legislature/Local Bodies etc.,

8. As per the said Brochure, if a person suppresses his or her employment in Government, Local Bodies and Public Corporations etc., the said candidates will be disqualified and debarred. In the present case, the petitioner was neither working in a local body nor Public Corporation. She was working only as a temporary Sales Woman in a Co-operative Society. The Deputy Registrar of Co-operative Society, Kovilpatti, has given a letter dated 09.03.2019, as per the request of the respondent, stating that the employment of the petitioner is only temporary and it is not a Government Job. In spite of such clarification, the respondent by the impugned order, cancelled the selection of the petitioner to the post of Assistant and debarred the petitioner for one year, which is erroneous, invalid and illegal. The issue whether the employment in RBI is Government service, was considered by the Division Bench of this Court, by judgment dated 26.03.2019 in W.A.No.1280 of 2019. The Division Bench of this Court has held that a person employed in RBI, is not a Government service and directed the respondent Tamil Nadu Public Service Commission to forward the name of the appellant therein to the Government, for taking further action to give him the order of appointment. In the present case, the petitioner was working as Sales Woman in a Co-operative Society temporarily, which is not comes under Government, Local Body or Public Corporation.

9. In view of the above materials, the impugned order passed by the respondent dated 24.08.2019, is set aside. The respondent is directed to select the petitioner and forward the name of the petitioner to the Government, for taking further action to give appointment to the petitioner, within two weeks from the date of receipt of receipt of a copy of this order.

10. With the above direction, the writ petition stands allowed. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)



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To

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

+1CC TO MR.K.K.SENTHIL, Advocate Sr. No. 96421

W.P. (MD) No.21367 of 2019

05.11.2019

SCR(CO)

TR(25.11.2019) 4P 3C