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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 18.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.A.[MD]No.1045 of 2019

and

C.M.P.[MD]No.9555 of 2019

against

WP(MD)No.16638 of 2019

N.Balan : Appellant/Petitioner
Vs.

1.The Tamil Nadu Public Service Commission,
Represented by its Secretary,
V.O.C. Nagar,
Chennai.

2.The Secretary to the Government,
Home (Transport) Department,
Fort St. George, Chennai. : Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent, praying to set aside the order dated 29.08.2019 in W.P.[MD]No.16638 of 2019.

Prayer in WP(MD) . 16638 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, to Court to call for the records pertaining to the impugned notification dated 14.2.2018 issued by the first respondent more fully Clause 6 (B) Depriving the Diploma awarded by the University under the Deemed University under the University Grants Commissions Act alone and quash the same and consequently direct the respondents to permit the petitioner to attend the interview for the post of Motor Vehicle Inspector Grade II along with other eligible candidates and to consider the appointment of the petitioner on merits and in accordance with law.

For Appellant : Mr.Veera Kathiravan
Senior Counsel
for Mr.C.Jeganathan

For Respondent No.1 : Mr.K.K.Senthil
Standing Counsel

For Respondent No.2 : Mr.S.Angappan
Government Advocate



JUDGMENT

[Judgment of the Court was delivered by T.S.SIVAGNANAM, J.]

By consent, the Writ Appeal is taken up for final disposal at the admission stage itself.

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2.Heard Mr.Veera Kathiravan, Senior Counsel for Mr.C.Jeganathan, learned Counsel appearing for the petitioner, Mr.K.K.Senthil, learned Standing Counsel appearing for the first respondent and Mr.S.Angappan, learned Government Advocate appearing for the second respondent.

3.This appeal is directed against the order dated 29.08.2019 in W.P.[MD]No.16638 of 2019. The appellant filed the writ petition challenging the notification issued dated 14.02.2018, insofar as it prohibits persons who have obtained Diploma under Deemed University through distance education mode ineligible to apply for the post of Motor Vehicle Inspector Grade II.

4.The learned Single Bench by the impugned order has dismissed the writ petition. We find that the reasons assigned by the learned Single Bench are perfectly in order. We support such contentions with the following reasons:

4.1.Admittedly, the petitioner participated in the selection process. Only when he came to know that he did not possess the requisite qualification and his name did not find place in the list of shortlisted candidates, he approached this Court. Therefore, the learned Single Bench was perfectly right in dismissing the writ petition on the ground that the appellant having participated in the selection process cannot turn around and challenge the notification in which he appeared.

4.2.The learned Standing Counsel appearing for the Tamil Nadu Public Service Commission rightly placed reliance on the following decisions:

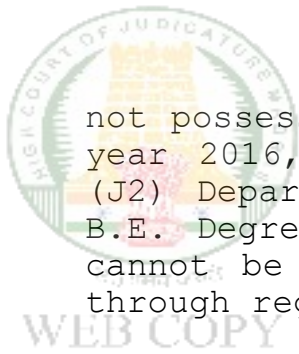
(i) 1986 (Supp) SCC 285 - Om Prakash Shukla Vs. Akilesh Kumar Shukla & Ors.

(ii) 1997 (4) SCC 426 - University of Cochin Vs. N.S.Kanjoonjamma and others.

(iii) 2007 (8) SCC 644 - Trivedi Himanshu Ghan Shyam Bhai Vs. Ahmedabad Municipal Corporation & Ors.

(iv) 2008 (4) SCC 171 - Dhananjay Malik and others Vs. State of Uttaranchal and others.

4.3.The next reason for rejecting the appeal is that the qualification stipulated by the employer, namely, the State Government is a degree or a Diploma awarded by the State Board of Technical Education of Tamil Nadu. Admittedly, the petitioner does



not possess the said qualification. Furthermore, as early as in the year 2016, the Government issued G.O.[Ms]No.149, Higher Education (J2) Department, wherein it has been clearly held that Diploma or B.E. Degree qualification acquired through Distance Education mode cannot be considered as equivalent to the qualification acquired through regular mode.

4.4.The said Government order still holds the field. The reliance placed on the circular of the University Grants Commission and the decision of the Hon'ble Supreme Court in ***Orissa Lift Irrigation Corporation Ltd., Vs. Rabi Sankar Patro & Others in Civil Appeal Nos.17869 to 17870 of 2017, dated 22.01.2018***, can in no manner advance the case of the appellant as the facts in the said case was entirely different and the candidates as a one time measure were permitted to take the examination to be conducted by AICTE. The proceedings issued by the AICTE subsequent to the decision also makes the decision very clear. Therefore, the decision of the Hon'ble Supreme Court will not in any manner render assistance to the case of the appellant.

4.5.Apart from that, the appellant had acquired the Diploma in Mechanical Engineering through distance education in November 2004. Therefore, the appellant cannot rely upon the decision of the Hon'ble Supreme Court. Learned Senior Counsel for the appellant submitted that the Ministry of Road Transport and Highways has issued notification dated 08.03.2019 in S.O.1215(E), in exercise of its powers under Section 213(4) of the Motor Vehicles Act, 1988 (59 of 1988)and has made an amendment to the qualification for certain category of posts. Admittedly, the said notification was issued only on 08.03.2019. Therefore, the said notification cannot be of any assistance to the appellant.

5.Thus, for the above reasons, we find no ground to entertain this Writ Appeal. Accordingly, the Writ Appeal is dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

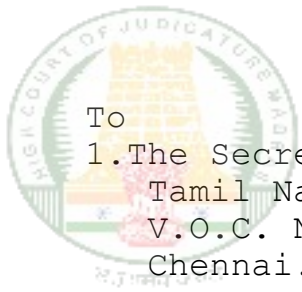
Sd/-

Assistant Registrar (CS II)

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Sub Assistant Registrar(CS)

MR



To

1.The Secretary,
Tamil Nadu Public Service Commission,
V.O.C. Nagar,
Chennai.

2.The Secretary to the Government,
Home (Transport) Department,
Fort St. George,
Chennai.

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-93304[F] dated
21/10/2019)

+1 CC to M/s.K.K.SENTHIL, Advocate (SR-93472[F] dated 22/10/2019)

W.A.[MD]No.1045 of 2019

Dated: 18.10.2019

KK/SAR/25.11.2019/4P-5C/