

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.15473 of 2013
and
M.P.No.1 of 2013

E.Jailatha Sivagami

.. Petitioner

... Vs ...

The Secretary,
Tamil Nadu Public Service Commission,
No.1 Greams Road,
Chennai - 600 006.

.. Respondent

Prayer:- Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondent to consider the representation dated 26.12.2012 of the petitioner and for the appointment of any of the following posts (i) Typist (Post Code: 2200) (ii) Junior Assistant - Non - Security (Post Code: 2600), (iii) Junior Assistant - Security (Post Code: 2400), (iv) Bill Collector (Post Code: 2500), (v) Field Surveyor (Post Code: 2800), (vi) Draftsman (Post Code: 2900) in the present Notification No.14/2012, dated 27.04.2012 of the respondent.

For Petitioner : Mr.A.Edwin Prabakar

For Respondent : Mr.M.Devendran

ORDER

The present writ petition has been filed by the petitioner praying for the issuance of a Writ of Mandamus, directing the respondent to consider the representation of the petitioner dated 26.12.2012 and for the appointment in any of the following posts (i) Typist (Post Code: 2200) (ii) Junior Assistant - Non - Security (Post Code: 2600), (iii) Junior Assistant - Security (Post Code: 2400), (iv) Bill Collector (Post Code: 2500), (v) Field Surveyor (Post Code: 2800), (vi) Draftsman (Post Code: 2900) in the present Notification No.14/2012, dated 27.04.2012

of the respondent.

2. The case of the petitioner is that she belongs to MBC and she completed S.S.L.C., in the year 1988. Thereafter, she completed B.Sc., Maths degree in Annamalai University in the year 2000 and she has not studied in the regular stream. Whiles, the respondent invited applications for the posts of Junior Assistant, Typist, Steno-Typist, Field Surveyor and the eligible criteria for the post was only S.S.L.C. As the petitioner had the necessary eligibility to be appointed in the said posts, she applied for the above posts on preferential basis. The petitioner secured 181.50 marks in the written examination held on 07.07.2012. Thereafter, the respondent herein called the petitioner for certificate verification and counselling on 13.12.2012 and she attended the same. For the said posts, the maximum age limit prescribed was upto 32 years for MBC candidates. The petitioner being a MBC candidate and having crossed the maximum age limit of 32 years, her application was rejected as 'over aged' and she was not allowed to participate in the counselling. Challenging the same, the present writ petition has been filed.

3. Mr.A.Edwin Prabakar, learned counsel for the petitioner submits that it is the undisputed case that the petitioner has completed S.S.L.C. and she has not studied higher secondary course, but the petitioner has completed degree course in the Open University Stream. As per the Government Order in G.O.Ms.No.107, Personnel and Administrative Reforms (M) Department, dated 18.08.2009, a person obtained a degree through Open University System, after passing 10th and +2 alone shall be acceptable for obtaining appointment / promotion in public services and his age can be relaxed. The petitioner is 39 years old. However, without considering the degree qualification, the respondent has rejected the application of the petitioner and not entertained the same which is not valid in law.

4. Mr.M.Devendran, learned counsel appearing for the respondent fairly conceded that the very same issue was considered by the Hon'ble Apex Court in the case of Annamalai University, rep. by Registrar Vs. The Secretary to Government, Information and Tourism Department and others reported in 2009 (4) SCC 590, wherein, the Apex Court has categorically held that without undergoing the basic 10th and +2, any degree obtained by a person is not a valid degree. However, the petitioner has acquired the degree qualification without completing +2 and has sought for age relaxation, which cannot be granted in view of the binding precedent in the decision referred supra.

5. The learned counsel appearing for the respondent further submits that G.O.Ms.No.107, P & AR (M) Department, dated

18.08.2009, issued by the State Government for extending the benefit to such a person, clearly mandates that a degree would be valid, even if acquired in the Open University Stream only if the same had been obtained after completing 10th and +2. However, in the present case, the petitioner having not completed +2, but has obtained the degree through Open University, her candidature cannot be considered, as the said degree cannot be termed to be a valid degree and therefore, the respondent was fully justified in rejecting her candidature and therefore, no interference is called for with the order impugned.

6. This Court paid its careful consideration to the contentions advanced by the learned counsel on either side and perused the materials available on record.

7. The facts in the present case are not in dispute. Though the petitioner has obtained a degree, however, the same has been obtained by her through Open University stream, without undergoing +2 course. The decision in Annamalai University case (supra) squarely stands applicable to the case of the petitioner. Once the degree obtained by the petitioner is held to be invalid, the age relaxation sought for by the petitioner based on a degree, which is held invalid, cannot be granted. Further, it is to be pointed out that G.O.Ms.No.107, which has been pressed into service, in no way furthers the case of the petitioner, as in the said Government Order, it has been categorically stated that only such of those persons, who had obtained degree through Open University stream after undergoing 10th and +2 course, such degree would be held to be a degree valid for consideration. The petitioner does not fulfill the criteria as mandated in the said Government Order. In such circumstances, the respondent has rightly rejected the case of the petitioner and, this Court is of the considered opinion that no interference is warranted with the order impugned.

8. For the reasons aforesaid, this Writ Petition is devoid of merits and, accordingly, the same is dismissed. Consequently, the connected miscellaneous petition is also dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

Jr1

To

The Secretary,
Tamil Nadu Public Service Commission,
No.1 Greams Road,
Chennai - 600 006.

W.P.No.15473 of 2013

SR(CO)
GN(23/10/2020)



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