



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2020

CORAM :

THE HON'BLE MR.AMRESHWAR PRATAP SAHI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A.No.411 of 2020

1. S.Gowtham Karthick
2. A.Mohamed Sameem

.. Appellants

vs.

1. The State of Tamil Nadu
rep. by Secretary to Government
Transport Department
Fort St. George, Chennai - 600 009.
2. The Controller of Examinations
Tamil Nadu Public Service Commission
TNPSC Road, VOC Nagar
Park Town, Chennai - 600 003.
3. Tamil Nadu Public Service Commission
rep. by the Secretary
TNPSC Road, VOC Nagar
Park Town, Chennai - 600 003.
4. The Transport Commissioner
Transport Department
Ezhilagam, Chepauk
Chennai - 600 005.

.. Respondents

PRAYER: Appeal filed under Clause 15 of the Letters Patent against the order dated 24.1.2020 passed by the learned Single Judge in W.P.No.22579 of 2019. Filed under Article 226 of the constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the Tamil Nadu Public Service Commission(TNPSC)the 3rd respondent in LIST-OT (Oral Test) containing the list of registration numbers of 33 candidates prepared by the 2nd respondent dated 15/7/2019 who have been provisionally admitted to the oral test for appointment by direct recruitment to the post of Motor Vehicle Inspector Grade-



II in the Tamil Nadu Transport Subordinate Service 2013-2018 pursuant to Notification No.03/2018 dated 14/2/2018 issued by the 3rd respondent and quash the same and consequently direct the 3rd respondent to call 226 candidates for oral test based on the marks obtained by the candidates in the written examination conducted on 10/6/2018 and thereafter conduct certificate verification for direct recruitment of 113 candidates to the post of Motor Vehicle Inspector Grade-II in the Tamil Nadu Transport Subordinate Service pursuant to Notification No.03/2018 issued by the 3rd respondent.

For Appellants : Mrs.Nalini Chidambaram
Senior Counsel
for M/s.C.Uma

For Respondents : Mr.R.Udayakumar
Addl. Government Pleader
for 1st respondent

JUDGMENT

(Delivered by The Hon'ble Chief Justice)

The learned Single Judge while disposing of a writ petition preferred by the appellants questioning the process of selection by the respondent/Commission for the post of Motor Vehicle Inspector Grade - II in the Tamil Nadu Transport Subordinate Service, issued directions to carry out the process of selection after verifying and scrutinizing the certificates of all the 1328 candidates, who participated in the written examination.

2. The appellants herein have assailed the said judgment and Mrs.Nalini Chidambaram, learned Senior Counsel for the appellants, has raised a limited plea to the effect that while the Court declined to go into the interpretation of Clauses 10 and 13(i) of the Notification, has proceeded to open up the process of selection in respect of all the 1328 candidates who had participated in the written examination and this, according to the learned Senior Counsel, was unjustified in as much as all the candidates had not approached this Court challenging the selection process and, therefore, the said relief granted by the learned Single Judge even to those who had not come to the Court should be set aside.

3. Since there is only a limited challenge raised to the said aspect, we are not entering into the merits of the judgment on any other issue. The thrust of challenge is guided only against paragraphs 42 and 43 of the impugned judgment to the extent indicated above.



4. For this, learned Senior Counsel has invited the attention of the Court to the aforesaid two clauses. Referring specifically to Clause 10 of the Notification, it is emphasized that based on the marks obtained by the candidates in the written examination, the tentative list of eligible candidates for certificate verification will be announced in the Commission's website. Learned Senior Counsel contends that extending this benefit to all the candidates, including those who had not approached the Court, will swell this list and this will affect the rights of the appellants and such other similarly situate candidates, who will now be comparatively adjudged along with those candidates who had not approached this Court.

5. We are unable to accept this contention and do not view it as a legal or fundamental right in favour of the appellants so as to exclude those who had not approached the Court. The learned Single Judge has delved into the entire selection process and thereafter has issued directions, which do not confine only to the rights of those who had filed a writ petition, but also extend to those candidates who were similarly and equally placed as the appellants, and had appeared in the written examinations. To discriminate them would be violative of Articles 14 and 16 of the Constitution of India, and such violation should not emanate ordinarily on account of any judicial review undertaken by this Court under Article 226 of the Constitution of India, unless it causes any substantial prejudice to the candidates or otherwise would amount to burdening the entire process of selection.

6. In the instant case, it is only a matter of 1328 candidates in all, including the appellants and the writ petitioners who had come before this Court. To re-do the exercise after including those who had not approached this Court is not going to burden the respondent Commission. The expansion of the zone of consideration by including all the candidates is only to allow participation of those who were participants in the same process of selection and are not outsiders. In such a situation, to the extent of the challenge raised in the present appeal, we are unable to find any fault with the direction issued by the learned Single Judge in accommodating all the 1328 candidates.

We, therefore, find no merit in this appeal and the same is



accordingly rejected. No costs. Consequently, C.M.P.Nos.6469, 6470 and 6472 of 2020 are closed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To:

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State of Tamil Nadu
Transport Department
Fort St. George, Chennai - 600 009.
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EV(CO)
GS(13/07/2020)