

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 27.07.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No. 28685 of 2013
and
M.P.Nos.2 & 3 of 2013

1.K.Sakthivel

2.V.Hemalatha,

3.D.Selvi,

4.R.Madhan

... Petitioners

- Vs -

1.The State of Tamil Nadu,
Rep. By the Secretary to Government,
Higher Education, (K2) Department,
Fort. St. George, Chennai 600 009.

2.The Tamil Nadu Public Service Commission,
Rep. By its Member Secretary,
No.1, Greams road,
Commercial Taxes Annexe Buildings,
Chennai 600 006.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Certiorarified Mandamus, calling for the records of the First respondent in G.O.(Ms) No.117 dated 2.7.2013 quash the same with respect to resolution No.12 and consequently direct the respondent to publish the results of the petitioners in the Combined Engineering Service Examinations held on 24.10.2010 for which oral interview was held from 08.08.2011 to 25.08.2011 and appoint the petitioners to the posts advertised by the second respondent in Advertisement Number 247.

For Petitioners: M/s. Jenasen

For Respondents: Mr.A.N.Thambidurai, Spl.G.P. For R.1

:M/S.c.N.G.Niraimathi for R2

ORDER

The petitioners have come up with the present writ petition for a Certiorarified Mandamus, calling for the records of the First respondent in G.O.(Ms) No.117 dated 2.7.2013 quash the same with respect to resolution No.12 and consequently direct the respondent to publish the results of the petitioners in the Combined Engineering Service Examinations held on 24.10.2010 for which oral interview was held from 08.08.2011 to 25.08.2011 and appoint the petitioners to the posts advertised by the second respondent in Advertisement Number 247.

2.It is the case of the petitioners that they have completed their High School/Higher Secondary School examinations, and thereafter completed a Diploma course in Engineering in institutions approved by the State Board of Technical Education and Training of the Department of Technical Education, Government of Tamil Nadu, and subsequently joined in the B.E. course conducted by the Vinayaka Missions Deemed University through Distance Education Mode in the year 2005. After completing the said course the petitioners obtained the provisional certificate in March 2005.

3.It is the case of the petitioners that the 2nd respondent herein advertised for the post of Assistant Engineers in the Tamil Nadu Engineering Service, Tamil Nadu Panchayat Development Service, Tamil Nadu Highways Engineering Services etc., included in the combined engineering service examinations by direct recruitment vide publication bearing NO.247, instructed that the candidates were required to appear for an entrance test on 24.10.2010 followed by an interview. The petitioners participated in the written examination, whereinafter the petitioners were directed to appear for an oral test and it was conducted from 08.08.2011 to 25.08.2011 and the petitioners produced all the original documents in lieu of the attested copies sent by them along with their applications. Though the petitioners were waiting for the intimation from the respondents, to their shock and surprise, the 2nd respondent went ahead and notified the list of registration numbers of candidates selected provisionally for appointment to the post. However the petitioners were not selected on account of the letter of the Ministry of Human Resource Development addressed to IGNOU directing the DEC to withdraw permission given to various institutions to conduct B.Tech/B.E programmes through distance mode. The said decision of the Ministry was taken only after the petitioners completed the B.E. course in March, 2009 and, therefore, the validity of the B.E. Degree obtained by the petitioners cannot be questioned. Immediately thereafter the petitioners approached this Court by filing writ petition in

W.P.No.26001/2011 praying for a writ of mandamus directing the 2nd respondent to publish the results of the petitioners therein in the combined engineering service examinations, 2010 and in the following oral interview held by the 2nd respondent and consider the claim of the petitioners for selection to the posts included in the combined engineering services 2010 based on the marks secured by them. During the pendency of the writ petition, the Government of Tamil Nadu issued G.O.Ms. No.242, Higher Education Department dated 18.12.2012 holding that those persons who finished SSLC and then Diploma and then degree through distance education mode are considered equivalent to those persons who finished 10th standard and then 12th standard and then Bachelors degree for the purpose of employment or promotion. Subsequently, the said writ petition was allowed on 03.01.2013 by holding that in view of the above mentioned G.O., it cannot be said that the petitioners are disqualified for appointment to the post of Assistant Engineers in the Tamil Nadu Engineering Services. Based on the above said direction the petitioners again approached the respondents and they were informed about the subsequent G.O.Ms.No.117 dated 02.07.2013 in which the recommendation of the equivalence committee in Resolution No.12, that the diploma/B.E degree qualification acquired through Distance Education mode is considered as not equivalent to qualification acquired through regular stream, was accepted by the Government. In view of the above, left with no other alternative, the petitioners have preferred the present petition.

4.Learned counsel appearing for the petitioner submitted that though the petitioners have completed their B.E. degree in the distance Education mode at Vinayaka Missions Deemed University in the year 2009, subsequently the Ministry of Human Resource Development issued a direction to discontinue the distance Education mode in B.Tech/B.E. Programmes. However the subsequent Instructions will not invalidate the degree obtained by the petitioners prior to the instructions and subsequently G.O.Ms. NO.242 dated 18.12.2012, there was favour of the petitioner, which was superceded by G.O.117 dated 02.07.2013, in view of Resolution No.12 disqualifying the petitioners of their entitlement for getting a job. Hence the present writ petition is filed. However, learned counsel appearing for the petitioner submits that subsequently, vide G.O.Ms.NO.217, Higher Education Dept., dated 3.12.2019, the degree obtained by the petitioners through distance education mode stood validated and, therefore, the candidature of the petitioners ought to be considered. Accordingly he prays for allowing this writ petition.

5.Heard the learned counsel for the petitioners and perused the materials available on record.

6.Considering the facts and circumstances of the case, in the present case it is an undisputed fact that the petitioners obtained their B.E. Degree through distance education mode. However, the said degree was not held to be equivalent in view of resolution No.12, which found favour by issuance of G.O.Ms.NO.117, dated 02.07.2013. True it is that vide G.O.Ms.NO.217, Higher Education Dept., dated 3.12.2019, the degree obtained by the petitioners through distance education mode stood validated, but it is to be pointed out that at the time of admission of the writ petition, no interim order was granted in favour of the petitioner and in the absence of any interim order, the whole selection process has come to an end and the persons, who have been selected have joined the said post. Without putting the said selected candidates on notice, this Court cannot pass any order, which would be detrimental to the said persons and at this distant point of time, almost seven years have passed since the selection process took place, it would not be justified to interfere in the same in exercise of jurisdiction under Art. 226 of the Constitution of India. Further, G.O.Ms.NO.217, Higher Education Dept., dated 3.12.2019, by which the equivalence of the petitioners degree stood validated can operate only prospectively and it cannot operate retrospectively.

7.In such circumstances, this Court is of the considered opinion that the prayer sought for in this petition cannot be acceded to. However, learned counsel appearing for the petitioners submitted that this Court may issue a direction to the respondents to communicate the results to the petitioners so that they can work out their remedy in a manner known to law. On the above, learned Special Government Pleader appearing for the respondent has no objection.

8.Accordingly, this writ petition is dismissed, however, the respondents are directed to communicate the result to the petitioners and it is made clear that mere communication of result, that too at the behest of the petitioners, will in no way entitle the petitioners to any opportunity of However the petitioners are at liberty to workout their remedies in a manner known to law.

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Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

jrs

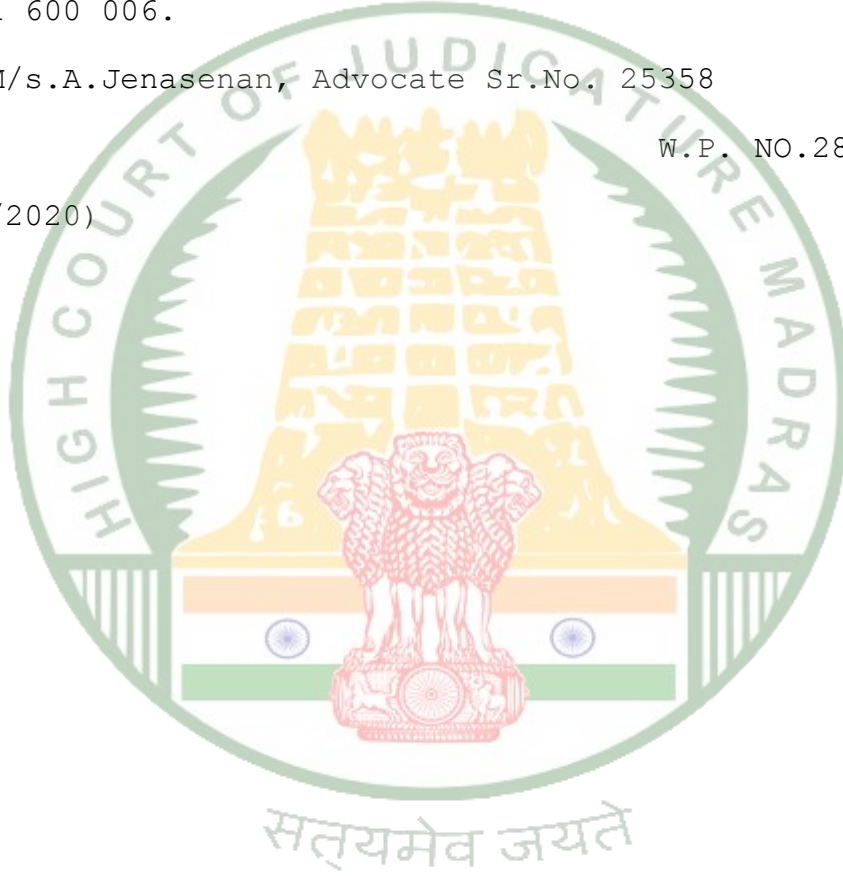
To

- 1.The State of Tamil Nadu,
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- 2.The Tamil Nadu Public Service Commission,
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+1 cc to M/s.A.Jenasenan, Advocate Sr.No. 25358

W.P. NO.28685 OF 2013

SKS (CO)
RMP (31/08/2020)



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