

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 07.12.2020

Pronounced on : 11.12.2020

CORAM :

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.5726 of 2020 and
W.M.P.No.6684 of 2020

G.Tamilarasi

... Petitioner

-Vs-

Tamil Nadu Public Service Commission,
Rep by Member Secretary,
TNPSC Road,
Park Town,
Chennai 600 003.

... Respondent

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration, to declare that the action of the respondent not including the name of the petitioner for the original certificate verification list issued by the respondent dated 12.02.2020 as arbitrary, illegal and in violation of natural justice and consequently, direct the respondent to permit the petitioner to participate in both the counseling for the posts included in the Combined Civil Services Examination -4, Group-IV examinations, issued by the respondent in Notification No.19/2019 dated 14.06.2019.

For Petitioner : Mr.NGR.Prasad for
M/s.Row & Reddy

For Respondent : Mr.N.Balamurali Krishnan, SC

O R D E R

This writ petition has been filed to declare that the action of the respondent not including the name of the petitioner for the original certificate verification list issued by the respondent dated 12.02.2020 as arbitrary, illegal and in violation of natural justice and consequently, direct the respondent to permit the petitioner to participate in both the counseling for the posts included in the Combined Civil Services Examination -4, Group-IV examinations, issued by the respondent in Notification No.19/2019 dated 14.06.2019.

2. According to the petitioner, the respondent Commission issued notification No.19/2019, inviting applications for recruitment to the posts included in the Combined Civil Services Examination - 4, Group IV, seeking to fill up 6491 vacancies. The petitioner, in response to the notification, applied for consideration of her candidature through online on 24.06.2019. The petitioner belongs to BC category and she is also eligible to be considered under PSTM Quota and also Destitute Widow (Special Category).

3. The petitioner thereafter participated in the written examination held on 01.09.2019 and the result was published on 12.11.2019. The petitioner has secured 211.5 marks out of total 300 marks. As per the statement of mark, she has secured overall rank as 60496 and communal rank as 26207 for all posts included in the notification.

4. According to the petitioner, she was ranked as 85 under Destitute Widow category. The Commission published two separate list for provisionally admitted candidates for Certificate Verification on 30.11.2019. Thereafter, the candidates were directed to upload the copies of the certificates through E-Seva Centres in support of their claim for appointment on 03.12.2019. The time was fixed between 05.12.2019 and 18.12.2019 for uploading certificates by the candidates.

5. According to the petitioner, she approached E-Seva Centre, Karur, on 07.12.2019 and uploaded all the certificates and the fact of uploading of the certificates, has also been acknowledged by issuing proper receipt by the E-Seva Centre. The respondent subsequently issued a list of 39 candidates on 31.01.2020, directing them to upload the certificates from 01.02.2020 to 07.02.2020. Further, the respondent issued the list on 12.02.2020, of candidates admitted to original Certificate Verification and counseling based on the rank list published on 12.11.2019, including 27 new candidates who were not in the original list published on 12.11.2019. At this, the petitioner found that her Register Number was missing in the list. Thereafter, on enquiry, the petitioner came to know that the E-Seva Centre, has uploaded only the petitioner's 12th Std PSTM Certificate and failed to upload the 10th Std PSTM Certificate, as the 10th Std PSTM Certificate was a requirement for consideration of the petitioner under PSTM Quota.

6. In the circumstances, the petitioner was not included in the final original Certificate Verification and Counseling on 12.02.2020. According to the petitioner, the E-Seva Centre, through which, the certificates were uploaded, had given proper acknowledgment stating that all the certificates including PSTM Certificate for both 10th Std and 12th Std have been uploaded and for unknown reason, it did not reach the Commission. Since the candidature of the petitioner was not considered in the final stage of selection, being aggrieved, the petitioner is before this Court.

7. Notice was ordered in the writ petition. Mr.N.Balamurali Krishnan, learned Standing Counsel appeared on behalf of the respondent.

8. When the matter was taken up for hearing earlier, this Court has directed the Commission vide interim order dated 04.03.2020, to permit the petitioner to attend the counseling on any one of the dates scheduled without prejudice to the rights of the parties in the writ petition. Thereafter, it appears that the petitioner was permitted to participate in the counseling and the certificates as required by the Commission were also produced to the satisfaction of the Commission. Ultimately, the petitioner being found eligible for appointment in the category for which she laid her claim, the provisional appointment has also been issued appointing the petitioner as Junior Assistant in Public Health and Preventive Medicine Department, in pursuance of her selection pursuant to the subject Notification. However, the appointment is stated to be subject to the disposal of the present writ petition.

9. On behalf of the respondent Commission, a counter affidavit has been filed. In the counter affidavit, it is stated that when the candidates were informed of the selection procedure as stipulated in the Notification itself, it is the responsibility of the candidate to ensure that all the certificates were uploaded within the time stipulated by the Commission. As far as the Commission is concerned, the PSTM claim of the petitioner could not be considered in the absence of 10th Std certificate as a proof of petitioner having done her schooling in Tamil Medium of Instructions. Therefore, she could not be considered against the PSTM Quota.

10. Mr.NGR.Prasad, learned counsel for the petitioner, would submit that the petitioner cannot be faulted for the error, even assuming that the certificate in question has not been uploaded by the E-Seva Centre. The E-Seva Centre has in fact issued acknowledgment for having uploaded all the certificates, vide its receipt dated 07.12.2019. Therefore, the petitioner was under the bonafide impression that every requirement has been complied with.

11. In any event, he would submit that, now, the petitioner has been found to be eventually eligible for appointment and appointment order has also been issued, the writ petition may be disposed of in favour of the petitioner, taking note of the positive development.

12. Although in the facts and circumstances of the case, the petitioner cannot be faulted with for not uploading 10th Std PSTM

certificate, at the same time, the Commission cannot also be blamed for originally not considering the claim of the petitioner. As far as the Commission is concerned, the required certificate did not reach the Commission's office and therefore, there was no scope for the Commission to consider the petitioner against PSTM Quota.

13. In any case, this Court has intervened and passed interim orders and on the basis of which, the petitioner was allowed to participate in the counseling provisionally and ultimately the petitioner has been favoured with the provisional appointment order also. When the petitioner is found to be fully eligible for appointment and being appointed also as Junior Assistant, this Court is of the view that, in all fairness, the issue must rest at that.

14. This Court is not inclined to fathom out as to who is to be blamed in the contention between petitioner and the respondent Commission for non availability of the certificate in question at the crucial time. According to this Court, such blame game is of no consequence, in view of the subsequent development wherein the petitioner has been issued a provisional appointment order.

15. In the above circumstances, the considered view of this Court is that the petitioner should be allowed to enjoy the fruition of the appointment without any strings attached to her appointment. This is particularly so, that the petitioner being a Destitute Widow, has earned her appointment in her own right.

16. Therefore, it is hereby declared that the appointment of the petitioner dated 28.11.2020, as Junior Assistant, Public Health and Preventive Department, is not to be construed as provisional appointment on account of pending of this writ petition. The Commission is directed to issue necessary clarification in this regard expeditiously.

17. With the above observation, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

To

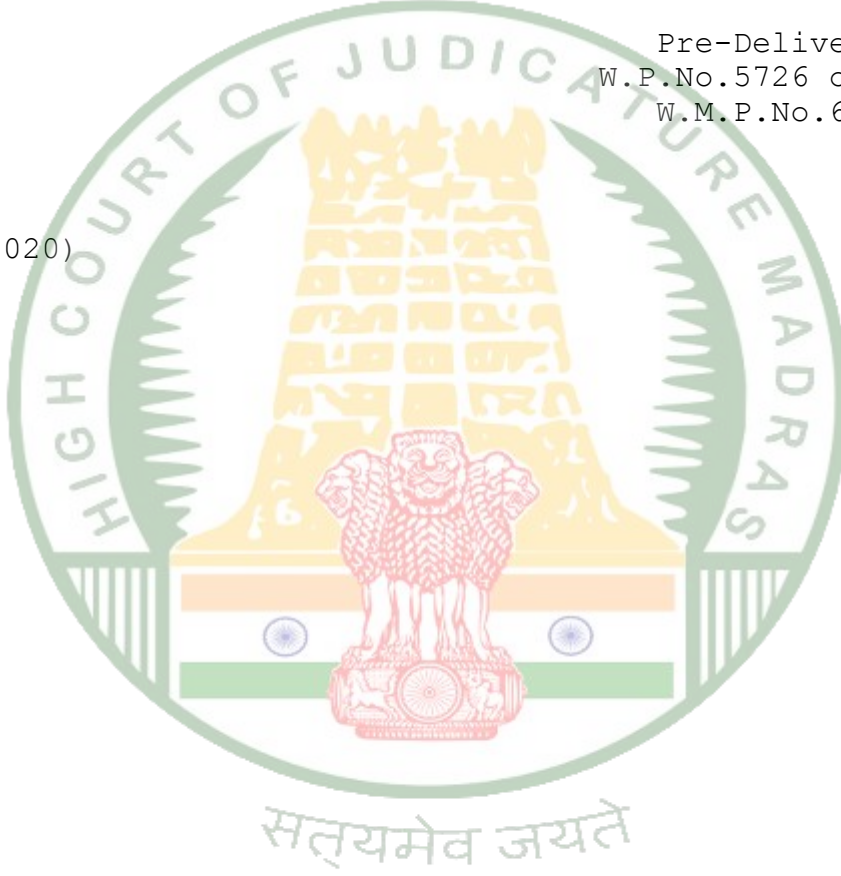
The Member Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road,
Park Town,
Chennai 600 003.

+lcc to Mr.N.Balamurali, Advocate, S.R.No.40626

+lcc to M/s.Row & Reddy, Advocate, S.R.No.40254

Pre-Delivery order in
W.P.No.5726 of 2020 and
W.M.P.No.6684 of 2020

EV(CO)
RV(22/12/2020)



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