

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 08.07.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 758 OF 2013

E.Meenakshi

.. Petitioner

- Vs -

1. State of Tamil Nadu rep. by
its Secretary
Department for Health & Family Welfare
Fort St. George, Chennai 600 009.
2. The Tamil Nadu Public Service Commission
rep. by its Secretary
No.1, Greams Road, Commercial Taxes
Annexe Building, Chennai - 6.
3. The Director of Drugs Control
Office of the Director of Drugs
Anna Salai, Chennai - 6.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus directing the 2nd respondent to call the petitioner for oral interview for the post of Drug Inspector in pursuant to the Advertisement No. 288 dated 21.03.2012 and consequently consider the name of the petitioner for appointment to the post of Drug Inspector in accordance with law.

(Prayer amended as per order dated 08.12.2017 in W.M.P. No. 17184/2016 in W.P. 758/2013)

For Petitioner : Mr. Abrar Mohammed, for
Mr. Ram Prakash

For Respondents: Mr. A.N.Thambidurai, Spl. GP
for RR-1 & 3
M.Devendran for R-2

ORDER

It is the case of the petitioner that she belongs to Most Backward Class and that she completed B.Pharm from Dr.M.G.R. Medical University in the year 2007 and, thereafter, completed

M.Pharm from Anna University, Trichy. After completing her Masters Degree, the petitioner had worked in various private organisations till March, 2012.

2. It is the case of the petitioner that the 2nd respondent herein advertised for the post of Drugs Inspector, Junior Analyst and Phenyle Assistant by direct recruitment vide publication in the newspaper dated 21.3.2012 for a total of 90 vacancies. The petitioner applied for the post of Drugs Inspector. It is the further averment of the petitioner that a writ petition was filed challenging the examination process, which was dismissed by this Court. It is further averred by the petitioner that only after completing the entire selection process, the key answers were made available by the respondents, which revealed that many key answers were found to be wrong. It is the further averment of the petitioner that she had obtained 169.5 marks, however, persons, who had obtained lesser marks were called for interview while the petitioner was not called for interview. In this regard, the petitioner sent a representation to the 2nd respondent pointing out the infirmities, which evoked no response. Therefore, left with no other option, the petitioner has come before this Court by filing the present petition.

3. Learned counsel appearing for the petitioner submitted that candidates from the very same category as that of the petitioner, who had secured only 119 marks were called for interview, but the petitioner, who had obtained 169.5 marks was not called for interview. The above act of the 2nd respondent vitiates the whole selection process and it is highly arbitrary and illegal. It is the further submission of the learned counsel for the petitioner that though the successful candidates have not been impleaded as party respondents, however, the said infirmity could be cured at any point of time and the same should not be held to be in detriment to the petitioner.

4. Per contra learned counsel appearing for the 2nd respondent submits that the entire selection process was completed way back in the year 2013 itself and after a lapse of 7 years, it would not be justiciable to disturb the entire selection process, more so when even at the initial point of time, the petitioner had not impleaded the successful candidates. Though it is the contention advanced on behalf of the petitioner that non-impleadment of successful candidates can be cured at any point of time, however, at this distant point of time, after a period of seven years, when things have already settled, it would not be in the interest of any party to unsettle the whole selection process. It is the further submission of the learned counsel for the 2nd respondent that no candidate, who has secured lesser marks than the petitioner has

been called for interview. It is the further submission of the learned counsel for the respondents that one of the grounds on which the case of the petitioner has not been considered is because, the petitioner has not completed the Bachelor's and Master's degree in Tamil Medium.

5. Countering the submission of the learned counsel for the 2nd respondent relating to non-completion of Bachelor's and Master's degree in Tamil by the petitioner, it is submitted by the learned counsel for the petitioner that Bachelor's and Master's degree is not available in Tamil Medium and, therefore, the submission of the learned counsel for the 2nd respondent that the petitioner has not completed his Bachelor's and Master's degree in Tamil is wholly misconceived.

6. This Court heard the submissions of the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents and perused the materials available on record.

7. The contention of the respondents relating to non-completion of Bachelor's and Master's degree in Tamil by the petitioner, is wholly misconceived. Medium of instruction in Tamil is insisted only upto the Higher Secondary level and it is not insisted in the collegiate level. Therefore, the said contention of the respondent is wholly misconceived and unsustainable.

8. The process of selection had started in the year 2012 and was completed in the year 2013 itself. The petitioner has filed the present petition in the year 2013 and by that time, the process of selection had come to an end and the successful candidates have been appointed in the said posts. No interim orders were sought for by the petitioner in the present writ petition and, therefore, no interim order relating to the selection process was in operation. Further, the petitioner was not diligent enough to implead the successful candidates immediately on completion of the selection process. Though it is the contention of the learned counsel for the petitioners that non-impleadment of the successful candidates can be cured at any point of time, however, the said contention cannot be accepted for the simple reason that more than seven years have passed since the candidates have been appointed and have been discharging their works in the said post and by this time, much water has flown under the bridge for this Court to interfere in the selection process. During the interregnum period, the petitioner has not taken any steps to implead the successful candidates and allowing the petitioner to do so at the fag end, when the writ petition is to be decided finally, would be nothing but giving a premium to the petitioner to drag on the

litigation interminably and also making the Damocles sword hang on the head of the persons, who have been appointed and have been working for more than seven years. Therefore, it would be wholly unsafe to disturb the selection and appointment of persons, who have been appointed way back in the year 2013, almost after a period of seven years. Further, it is the categorical submission of the learned counsel for the respondents that persons, who have secured lower marks than the petitioner have not been appointed. The petitioner has not placed any substantial material before this Court to disprove the said contention. In such a backdrop, this Court is of the considered opinion that in the absence of any material disproving the stand of the respondents, to disturb the process, which has attained finality almost seven years back, would not be in the interest of justice as also the individuals, who have been appointed in the said post. Therefore, this Court, in the fitness of things, as pointed out above, is not inclined to accede to the relief sought for by the petitioner.

9. For the reasons aforesaid, this writ petition, being devoid of merit, is accordingly dismissed. However, in the circumstances of the case, there shall be no order as to costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

GLN
To

1. The Secretary to Government
Department for Health & Family Welfare
Fort St. George, Chennai 600 009.
2. The Secretary
Tamil Nadu Public Service Commission
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AD(CO)
SP(04/08/2020)