

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 07.12.2020

DELIVERED ON: 11.12.2020

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.NO.12007 OF 2020

AND

W.M.P.NOS.14741 OF 2020

K.Kaviya

...Petitioner

Vs

1. The Chairman,
Tamil Nadu Public Service Commission,
T.N.P.S.C. Road,
V.O.C.Nagar, Park Town,
Chennai - 600 003.

2. The Secretary,
Tamil Nadu Public Service Commission,
T.N.P.S.C. Road, V.O.C.Nagar, Park town,
Chennai - 600 003.

...Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying Writ of Mandamus to direct the respondents to consider the representation dated 09.03.2020 sent by the petitioner and pass suitable orders in accordance within a stipulated period by allowing him to participate in certificate verification afresh by producing 10th standard certificate.

For Petitioner : Mr.C.Uma Sankar

for Mr.M.Selvam

For Respondents : Mr.N.Balamuralikrishnan

Standing Counsel

O R D E R

The matter is taken up through web hearing.

2. This Writ Petition has been filed to issue a Writ of Mandamus to direct the respondents to consider the representation dated 09.03.2020 sent by the petitioner and pass suitable orders in accordance with law within a stipulated period by allowing him to participate in certificate verification afresh by producing 10th standard certificate.

3. The petitioner herein has participated in the selection of Combined Civil Service Examination-IV(Group-IV Services) which was held in pursuance of the notification of the respondent Commission for the vacancies of the year 2018-2020 in various categories of posts. The petitioner belongs to Scheduled Caste Community. After declaration of the result for the written examination, the petitioner has obtained overall ranking of 2069 and community ranking as 243. As the petitioner became eligible for consideration to the next stage of selection, she was directed to upload the certificates in support of her claim. The petitioner claims to have duly complied with the directives by uploading all the certificates.

4. When final list was published on 09.03.2020, the petitioner found her registration number was missing in the list. Thereafter, on enquiry, the petitioner was informed that her 10th standard certificate indicating her Tamil medium of study was not uploaded in the website and therefore, the petitioner was not considered against the quota reserved for PSTM candidates. According to the petitioner, mistakenly her +2 certificate, which was also indicative of tamil medium of study was alone uploaded. For an innocuous error in not uploading the S.S.L.C. certificate, the petitioner was denied participation in the further process of selection, despite, she having securing high ranking in the selection.

5. Earlier, when the case came up for consideration, this Court has passed an interim order on 23.09.2020 directing the Commission to permit the petitioner to participate in the certification verification/counselling, as at that time, the counselling was under way and the petitioner was also directed to produce all the certificates in original in support of her claim. It appears that the direction was also complied with and the petitioner was also permitted to participate in the certificate verification and she had also produced all the required certificates in support of her claim.

6. When the matter is taken up today, on direction from this Court, the Commission produced the certificates uploaded by the petitioner and the crucial SSLC certificate indicating the tamil medium of instruction undergone by the petitioner which was stated to be not uploaded originally as per the directions of the Commission. The Commission also produced a copy of the provisional appointment letter dated 28.11.2020 issued to the petitioner appointing her as typist in the Agriculture Department, subject to the outcome of this writ petition, pending before this Court.

7. A counter affidavit has been filed raising objections to the relief being claimed by the petitioner. According to the counter affidavit that the candidates have been well informed with elaborate instructions in the Commission website and they were directed to upload all the documents in support of their claim before the stipulated date. All the candidates were widely informed in the Commission official news and no complaints have been received by the Commission with regard to any difficulty in uploading the documents from any candidate. In substance, in the counter affidavit the objection of the Commission is that, if the claim of the petitioner herein is entertained, it will only open the flood gates to similar claims.

8. At this, Mr. Uma Shankar, learned counsel for the petitioner would submit that the petitioner having been selected now and also been appointed provisionally is indicative of the fact that the petitioner was found to be meritorious in her category and therefore, an error of not uploading the required certificates may be condoned, particularly, in this case, as the petitioner belongs to the down trodden community and the present employment would go a long way to enhance her status and position in the society.

9. This Court is fully in agreement with the submission of the learned counsel for the petitioner. In a claim of this nature, though the Commission may not be blamed for not permitting the petitioner to participate in the verification/counselling, yet the petitioner cannot be deprived of her valuable right to be appointed in public service for a most innocuous and inadvertent mistake for not uploading the certificate in support of her claim against PSTM quota. Nevertheless, the fact of the matter was that the petitioner had uploaded +2 certificate which was also indicative of the fact that the petitioner had studied the courses in tamil medium. In any case, the required certificate had been produced by the petitioner at the time of her participation of the certificate verification and this Court is of the considered view that the issue must be allowed to rest at that.

10. When the petitioner has been ultimately selected and issued appointment letter, though provisionally, however, in view of the favourable development, any decision against the vital interest of the petitioner would only lead to miscarriage of justice and the injustice would appear more pronounced in the case of the member of down trodden community.

11. In the circumstances, the Writ Petition is allowed and it is declared that the appointment of the petitioner shall henceforth, be not attached with any rider, terming the same as provisional, on account of the pending of this writ petition

before this Court. The Commission is therefore, directed to issue clarification in this regard after taking note of the disposal of the writ petition as above expeditiously. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CJ CONF)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Chairman,
Tamil Nadu Public Service Commission,
T.N.P.S.C. Road, V.O.C.Nagar, Park Town,
Chennai - 600 003.

2. The Secretary,
Tamil Nadu Public Service Commission,
T.N.P.S.C. Road, V.O.C.Nagar, Park town,
Chennai - 600 003.

+1cc to Mr.N.BalamuraliKrishnan, Advocate, S.R.No.40627

+1cc to Mr.M.Selvam, Advocate, S.R.No.40970

Pre-delivery order made in
W.P.No.12007 of 2020

SSI(CO)
KKV/06/01/2021

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