

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2020

CORAM :

The Hon'ble Mr.A.P.SAHI, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P.No.14635 of 2020
and W.M.P.No.18161 of 2020

E.Thamizhannai .. Petitioner

-vs-

1.The Tamilnadu Public Service Commission,
Rep. by its Secretary, V.O.C.Nagar,
Park Town, Chennai 600 003.

2.The Controller of Examination,
The Tamil Nadu Public Service Commission,
V.O.C.Nagar, Park Town,
Chennai 600 003.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the 2nd respondent to rectify the category in the petitioner's online application namely E.Thamizhannai pertaining to direct recruitment to the post of Civil Judge in Tamilnadu State Judicial Service by way of changing the petitioner's category from a person claiming medium of instruction as Tamil for a law degree (PSTM Certificate) to Backward Class Community category Service in pursuance of the notification issued by the 1st respondent in Notification No.25/2019, dated 09.09.2019.

For Petitioner

: Mr.S.Thamizharasi

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ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner is an applicant for a direct recruitment to the post of Civil Judges, where she has succeeded in the preliminary examinations.

2.It appears that she has not been permitted to write the main examinations and the fault whereof is explained by the petitioner in paragraph 8 of the affidavit, which is as follows:-

"I submit that due to inadvertency PSTM Certificate was not uploaded instead M.A. Tamil Certificate was uploaded. Though I studied throughout Tamil Medium from 10th to B.L. Degree, I did not obtain this PSTM Certificate for having studied B.L. Degree 5 years course in the Tamil medium in the given format. I studied 2 years in Coimbatore Law College due to non-admission of students in the Government law college in Chennai as policy decision of Government of Tamil Nadu in G.O.No.332, Law Department, dated 30.05.2002 and thereafter I was transferred and completed the degree in Madras Law College. Hence, there is no record to show that I studied in Tamil Medium. Due to inadvertency I was under the impression that as wrote exams in Tamil, I can claim to have studied in Tamil Medium. Hence due to proper lack of time and concentration I claimed PSTM Certificate and inadvertently uploaded M.A. Tamil Certificate. After the Memo dated 22.9.2020, I come to know that I could not get PSTM Certificate from Educational Institution due to non-availability of my records as person studied in Tamil Medium though I wrote all the papers in Tamil. After great difficulties in middle age of 35 and claimed to be a mother of 2 children fortunately I have cleared the preliminary examination and also relentlessly preparing for the Main examination. I have given my replies dated 25.9.2020 & 29.9.2020 to the 2nd respondent both through email and post to consider me under B.C. Quota and issue a hall ticket. But there is no response till date. As per the Memo dated 22.09.2020 it is directed that to send the scanned copy of the PSTM certificate through the respondent's email on or before 06.10.2020, failing which I will not be admitted to the main examination to the post of Civil Judge and my candidature will be rejected without any further notice."

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3.The advertisement, the conditions contained in the application and the description that was filled up by the petitioner, therefore, are now admittedly sought to be altered and a benefit is now sought on the ground that the petitioner had not appropriately disclosed her entire career being pursued in courses in the Tamil Medium and secondly, her candidature should now be permitted to be continued under the Backward Category quota and issue a hall ticket for appearing in the written examinations.

4.The petitioner cannot seek refuge under the garb of any human error or inadvertent error inasmuch as the petitioner is a candidate for a prestigious examination concerning the judiciary where she should be presumed to have filled up her form consciously and to the best of her knowledge on the basis of the qualification possessed by her. To permit any alternation or change or permit the said arrangement sought by the petitioner would be to deny any such opportunity to a large number of such candidates who might have committed the same error or would like to have the same benefit which would be violating not only the terms and conditions of the advertisement and the application form, but also Articles 14 and 16 of the Constitution of India. The notification, therefore, issued for holding of the examinations containing the correct particulars in application form is a sine qua non and the same admittedly having been faulted by the petitioner, no concession at this stage may be possible. Reference may be had to Clause 16 B and the Note thereunder, as also Clause 14 of the declaration given, which are extracted hereinunder:-

16.INFORMATION/INSTRUCTIONS TO THE CANDIDATES

A) ...

B) In G.O. (Ms.) No.145, Personnel and Administrative Reforms (S) Department, dated 30.09.2020, and G.O. (Ms.) No.40, Personnel and Administrative Reforms (S) Department, dated 30.04.2014, the Government have issued orders to fill 20% of all vacancies in direct recruitment on preferential basis to persons who studied the prescribed qualifying course in Tamil Medium. The 20% reservation of vacancies on preferential allotment to Persons who studied in Tamil Medium (PSTM) will apply to this recruitment. Applicants claiming this reservation must have studied the prescribed qualifying course for the post in Tamil Medium and should have the certificate for the same. Having written the University Examinations or Competitive Examinations in Tamil language alone will not qualify the candidate for

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claiming this reservation. If the Applicants with PSTM Certificate are not available for selection for appointment against reserved turn, such turn shall be filled by Non-PSTM Applicants but belonging to the respective communal category. The PSTM certificate shall be produced by the applicant in the prescribed format / proforma available in the Commission's website at 'www.tnpsc.gov.in' which shall be obtained from the Head of the Institution and submitted when called for by the Commission.

(For further details refer para.27 (XIX) of "Instructions to Applicants")

Note:-

While filing the online application form, the applicants shall verify their eligibility to claim reservation under PSTM. At the time of certificate verification, if any wrong claim is detected, the candidature of the individual will be rejected."

Declaration

"14.I have studied the prescribed qualification in Tamil Medium. I am aware that my application will summarily be rejected, if I fail to produce the evidence for having studied the prescribed qualification(s) in Tamil Medium/PSTM certificate as and when called for."

The Writ Petition in the light of above lacks merit and is, accordingly, dismissed. Consequently, W.M.P.No.18161 of 2020 is also dismissed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

sra

To

- 1.The Secretary,
Tamilnadu Public Service Commission,
V.O.C.Nagar, Park Town,
Chennai 600 003.

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2.The Controller of Examination,
The Tamil Nadu Public Service Commission,
V.O.C.Nagar, Park Town,
Chennai 600 003.

W.P.No.14635 of 2020

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