

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.12.2020

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.20202 of 2020

K.Sampath Kumar

...Petitioner

Vs

1.The Additional Chief Secretary to Government,
Tourism Culture & Religious Endowment Department,
Secretariat, Fort St. George, Chennai-9.

2.The Secretary to Government,
Tamil Nadu Public Service Commission,
TNPSC Road, Broadway, Chennai-3.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Mandamus to direct the 2nd respondent to allow the petitioner (Registration No.010001223) to participate in the certificate verification/counseling to be held on 29.12.2020 for the post of Assistant Tourist Officer Grade-II recruited for the 1st respondent.

For Petitioner : Mr.S.Sidhartha Vishnu

For Respondents: Mr.N.Balamurali Krishnan (for R2)

O R D E R

The petitioner has filed this writ petition seeking a mandamus to the 2nd respondent/Secretary to Government, Tamil Nadu Public Service Commission (TNPSC) to permit him to participate in the certificate verification/counseling to be held on 29.12.2020 for the post of Assistant Tourist Officer Grade-II recruited for the first respondent/Additional Chief Secretary to Government, Tourism Culture and Religious Endowment Department and for any other order that may be deemed fit and necessary.

2. The petitioner had applied for one post of Assistant Tourism Officer Grade-II ('post in question') from among 42 vacancies and had written the requisite examination on 28.09.2019. The results were published on 18.12.2019 and the petitioner had cleared the same, being placed 23rd in the

communal-wise category. The counseling was to be held in two phases, the first phase in January 2020. The candidates in that batch were required to send their certificates for online verification to participate in the process of counseling. The petitioner was in phase-2 and vide notification dated 23.10.2020, phase-2 candidates were required to submit their certificates for online verification between 23.10.2020 and 05.11.2020 for selection in the short-list for counseling/appointment.

3. While this is so, the petitioner appears to have faced some difficulties and dislocation in his family on account of the illness of his paternal grandmother who ultimately passed away on 03.11.2020. The petitioner states that he was thereafter suffering from viral fever and was hospitalized from 02.11.2020 till 16.11.2020. A death certificate and announcement about the demise of his grandmother and a medical certificate evidencing his illness during 02.11.2020 to 15.11.2020 have been enclosed in the typed set at pages 40, 47 and 41 respectively. As a result, the petitioner did not comply with the requirement of submission of certificates for online verification within the timeline stipulated. Admittedly, this is a lapse on his part.

4. On 20.12.2020, coming to know of the fact that he had missed the bus as far as the appointment to the post in question was concerned, he visited the office of R2 and, allegedly upon advice received there, dropped the documents in the drop box. Copies of the documents are also stated to have been sent by RPAD.

5. It is the aforesaid circumstances that he has approached this Court seeking a mandamus permitting him to participate in the counseling to be held tomorrow i.e. 29.12.2020. Advance notice has been sent to the panel counsel for the TNPSC and Mr. Balamurali Krishnan, learned counsel appearing for R2 is armed with instructions to proceed with the matter. By consent of both learned counsel and seeing as nothing is to be gained by adjourning this matter to await a counter, the lapse of the petitioner in not submitting the certificates in time being admitted, this Writ Petition is disposed finally even at the stage of admission.

6. The learned counsel for R2 opposes the prayer stating that the timelines for submission of the certificates have admittedly expired and thus, there is no merit in the same. No doubt it has. This writ petition evidently puts forth only a plea for mercy and in considering the same, what appeals to the Court are the following facts:

(i)The petitioner had applied in time for the post in question, appeared in the examination and cleared the same. His eligibility, subject to verification of the certificates and all other procedures for selection, is thus not in doubt.

(ii)The petitioner states that he is from a family engaged in agriculture and the first graduate in his family, having obtained a degree in MCA. I believe that such a candidate should be encouraged in the pursuit of his career and a technicality such as the present, should not be allowed to stand in the way.

(iii)An explanation has been offered as to why the certificates were not uploaded within the timeline stipulated, being the illness and demise of his grandmother as well as the petitioners' subsequent illness. This is thus not a case where the delay was caused by sheer carelessness or negligence.

7.In the light of the aforesaid, while making it clear that this order shall not be cited as a precedent for other similar matters, I am inclined to permit the petitioner to appear before R2 at 10.00 a.m. tomorrow i.e. 29.12.2020, where he shall present his certificates for verification. Admission to counselling shall be subject to the authorities finding the certificates to be in order and all other formalities being complied with. I make it clear that the only benefit that has been extended to the petitioner under this order is the condonation of the delay in submission of the certificates for online verification. That apart, the petitioner shall be subject to all processes as per the regular procedure followed by the respondents in the case of other selected candidates.

8.This writ petition is disposed in the aforesaid terms.
No costs.

सत्यमेव जयते

Sd/-

Assistant Registrar

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Sub Assistant Registrar

vs/ska

To

1.The Additional Chief Secretary to Government,
Tourism Culture & Religious Endowment Department,
Secretariat, Fort St. George, Chennai-9.

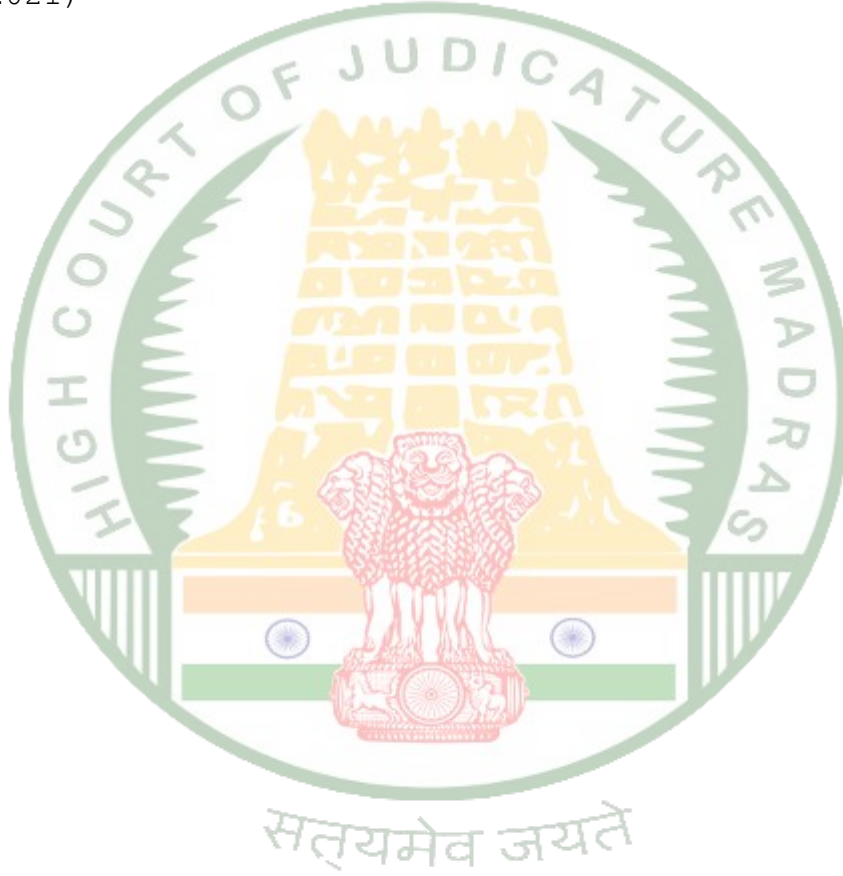
2.The Secretary to Government,
Tamil Nadu Public Service Commission,
TNPSC Road, Broadway, Chennai-3.

+1cc to Mr.N.Balamurali Krishnan, Advocate, S.R.No. 43193

W.P. No.20202 of 2020

PVS (CO)

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