



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.11595 of 2020

WMP (MD) Nos.10100&10101 of 2020

(Through Video Conferencing)

K.Kottar

... Petitioner

Vs.

1.The Chairman

Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police office Campus,
Egmore, Chennai.

2.The Member Secretary

Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police office Campus,
Egmore, Chennai.

... Respondents

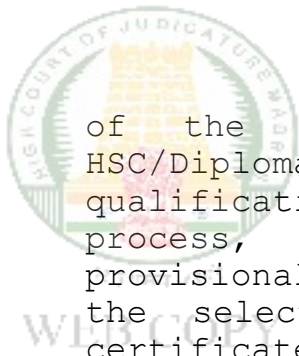
PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned rejection order dated Nil issued by the 2nd respondent on its web site and quash the same as illegal and further direct the 2nd respondent to allow the petitioner to give the physical test as the petitioner is qualified in the light of the answer key published by the 2nd respondent.

For Petitioner : Mr.N.Rajiv Rufus
For Respondents : Mr.K.Chellapandian
Additional Advocate General for
Mr.K.Mu.Muthu
Additional Government Pleader

ORDER

The prayer in the writ petition is for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned rejection order dated Nil issued by the 2nd respondent on its web site and quash the same as illegal and further direct the 2nd respondent to allow the petitioner to give the physical test, as the petitioner is qualified in the light of the answer key published by the 2nd respondent.

2.The respondent Recruitment Board has issued a Notification No.2/2019 dated 08.03.2019 inviting applications from eligible candidates to apply for the direct recruitment to the post of Sub Inspector of Police. Pursuant to the said Notification, the petitioner also had applied. However, at the time of scrutinizing the application, the respondent Board seems to have found that, some



of the educational qualification certificates, like, SSLC, HSC/Diploma, Provisional/Degree certificate, which are essential qualifications for the petitioner to participate in the selection process, since have not been uploaded, the petitioner was provisionally admitted to write the examination by participating in the selection process subject to the conditions that, those certificates shall be uploaded immediately or short after the written examination.

3. In this regard, a web communication, dated 19.02.2020 was given by the respondents to the petitioner.

4. Pursuant to the said direction given by the respondents, the petitioner participated in the written examination and has completed the examination.

5. However, subsequently, the petitioner has not been considered for selection to the next stage of selection process and when this was questioned by the petitioner, the petitioner's candidature having been rejected by the respondent Recruitment Board, such rejection has been uploaded in the Web Site of the respondents, where, the reason for rejection stated is, "REJECTED - DEGREE - COMPLETED AFTER NOTIFICATION", which means, the petitioner, since has completed the degree qualification only after the notification issued by the respondents, his candidature was rejected, ie., the order impugned. Challenging the same, the present writ petition has been filed.

6. The learned counsel for the petitioner would submit that, the petitioner is a fresh graduate, as he completed the B.E., degree in Aeronautical Engineering only in the year 2019, since he has already completed the course and written the final examination and in the meanwhile, since the notification was issued in March 2019, where, the educational qualification was degree, the petitioner also applied and the petitioner has not suppressed any fact that, he is a fresh candidate, where the results yet to be published and degree was not obtained, since the respondent has called for, pursuant to the notification, he applied and accordingly, he was permitted by the respondents vide communication dated 19.02.2020. Accordingly, he has written the examination. However, now by the impugned order, the candidature of the petitioner has been rejected as the petitioner has acquired the degree qualification only after the date of notification, the same cannot be sustained, as the petitioner has already been permitted to participate in the selection process and moreover, the petitioner has not suppressed anything in the application submitted in this regard and knowing well that the petitioner's educational qualification, ie., the certificate to that effect, for having completed the degree, though was not uploaded, he was permitted to participate in the written examination. Therefore, the respondents cannot now go back and say the reason that, the



petitioner has not qualified on the date of notification and accordingly, the rejection made through the impugned order rejecting the candidature of the petitioner cannot be sustained. Therefore, the learned counsel for the petitioner seeks indulgence of this Court.

WEB COPY

7. I have heard the learned Additional Advocate General appearing for the respondents assisted by the learned Additional Government Pleader, who would submit that, in the notification dated 08.03.2019 at Column No.6, the educational qualification has been stated, which reads thus:

"6.Educational Qualification: The applicant must hold a Bachelor's Degree obtained from Institution/University recognized by University Grants Commission/Government in 10+2+3/4/5 pattern or 10+2+3 pattern in case of Diploma courses. However, candidates who have obtained Bachelor's Degree through Open Universities without going through 10+2+3 pattern will not be eligible. Candidates should have studied in X/XII/Degree. If not studied, candidates will have to pass the Tamil Part-II Test conducted by Tamil Nadu Public Service Commission within 2 years of joining the service."

8. As per the said column, the candidates must hold a Bachelor's degree obtained from Institution/University recognized by the UGC/Government in 10+2+3/4/5 pattern or 10+3+2 pattern in case of diploma course.

9. Relying upon the said prescription of educational qualification, the learned Additional Advocate General would submit that, the said qualification is a must, every member, who participate in the selection process by making an application, should have completed and he/she must hold such qualification on the date of notification, without which, even though the petitioner applied and he was permitted to write the examination, it will not confer any right on him unless and until, he has come out with the degree certificate exhibiting that he has already completed the degree on the date of notification.

10. The learned Additional Advocate General would further submit that, on the date of notification, those who are having degree qualification alone is entitled to participate in the selection process and who does not have the qualification of degree, which is a basic qualification for making application even to the said recruitment, cannot be considered and therefore, the rejection now made for the said reason for want of qualification is perfectly valid and it is in tune with the said notification. Therefore, the said impugned order does not warrant any interference from this Court, he contended.



11. I have considered the said submissions and have perused the materials placed before this Court.

12. As has been rightly pointed out by the learned Additional Advocate General for the respondents, the law is well settled in this regard, whenever a recruiting agency invite applications from eligible candidates, where, certain qualification is prescribed, those qualifications are expected to be available with every candidate either on the crucial date fixed in the notification itself or in the absence of fixing of any crucial date, the date of notification shall be reckoned as a crucial date on which such a qualification must be available with every candidate.

13. The learned Additional Advocate General also further pointed out that, in the brochure issued to the candidates, which consisting of the said instructions under the Head 'Educational Qualification' in Clause VI, the following has been given:

"6. EDUCATIONAL QUALIFICATION:

I. Candidates should have a Bachelor's Degree from any University recognised by UGC/Government on the date of Notification."

14. Therefore, the learned Additional Advocate General has pointed out that, on the date of notification, candidates should have a bachelor degree from any University recognized by the Government/UGC. Even if such a prescription is not made by the recruitment agency in the notification, this Court feels that, in view of the settled legal position that, the crucial date should be reckoned for the purpose of acquiring the required qualification, which can only be the date of notification and since the same has been explicitly given in clause 6 of the Brochure, which form part of the notification, the petitioner cannot take any shelter that he was provisionally admitted to write the examination.

15. In the case in hand, admittedly, the petitioner completed the B.E., degree by passing the degree course in the final examination conducted in the month of April 2019. Therefore, as on the date of notification, ie., on 08.03.2019, the petitioner did not even write the final year examination. Only after a month ie., in April 2019 only, he admittedly written the examination and of course, he has come out successful in the final examination of B.E., course. Accordingly, the concerned University has given the provisional certificate dated 05.08.2019, where it has been declared that, the petitioner is qualified to be awarded a degree of Bachelor of Engineer in Aeronautical Engineering, as he passed out the examination conducted in April 2019 by the University, in First Class. Therefore, it has become crystal clear that, on 08.03.2019, ie., on the date of notification, the petitioner was not even admitted to write the final year examination, which was admittedly held on April 2019. Therefore, he does not satisfy the educational



qualification, as has been provided or required under Clause 6 of the Notification quoted above. Therefore, the petitioner, though has been provisionally permitted to write the examination by communication of the respondent dated 19.02.2020, that would not *ipso facto* confer any right on the petitioner to claim that, he shall be permitted to continue with the selection process, despite the fact that, he has not qualified with the degree as on the date of notification.

16. In that view of the matter, this Court has no hesitation to hold that, the petitioner cannot make any successful challenge of the impugned order passed by the respondent rejecting the candidature of the petitioner. Accordingly, the writ petition fails and the same is dismissed. No cost.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

RR

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Chairman

Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police office Campus,
Egmore, Chennai.

2.The Member Secretary

Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police office Campus, Egmore, Chennai.

+1 CC to M/s. SPL GP (SR-16891 & 17099[F])

W.P. (MD)No.11595 of 2020 and
WMP (MD) Nos.10100&10101 of 2020
14.09.2020

(PM) CO

AP(30/12/2020) 5P 4C