



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.3754 of 2011 and
MP.Nos.1, 3, 4 & 5 of 2011

C.Ullagaiah

...Petitioner

Vs

1. Government of Tamilnadu,
Rep. By the Secretary to Government,
Personnel & Administrative Reforms (M) Department,
Fort St. George, Chennai-600 009.
2. Tamil Nadu Public Service Commission,
Rep. By its Secretary, Greams Road,
Commercial Tax Office Building,
Chennai - 600 006.
3. The Principal Secretary & Commissioner
of Archaeology Department,
Halls Road, Egmore, Chennai-600 008.

4. K.Kumaravel

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for the records relating to the selection list dated 11.01.2011 short-list of candidates published by the 2nd respondent for oral test for the Epigraphist, Curator, Archaeology Officer & Junior Epigraphist posts based on the written examination held on 29.11.2009 and the selected candidates mark list dated 09.02.2011 published by the 2nd respondent and quash the same as being illegal, arbitrary, unconstitutional and consequently direct 2nd and 3rd respondents to prepare a legally valid shortlist of candidates by giving weightage to M.A. History degree holders also on par with other degree holders and call them for oral test.

For Petitioner	: Mr.T.Sundaravadanam
For Respondents	: Mr.C.Selvaraj (for R1 & R3)
	Government Advocate
	Mr.Karthik Rajan (for R2)
	No Appearance (for R4)



O R D E R

Heard Mr.T.Sundaravadanam, learned counsel for the petitioner, Mr.C.Selvaraj, learned Government Advocate for R1 and R3 and Mr.Karthik Rajan, learned counsel for R2. Though the name of R4 is printed in the cause list, there is no representation by or on his behalf.

2.The petitioner participated in an exam conducted by the Tamil Nadu Public Service Commission (TNPSC) on 29.11.2009, pursuant to notification dated 17.09.2009 calling for applications for various posts in the Department of Archaeology. The petitioner applied for the post of Archaeology Officer. When the results came to be published, his number did not figure in the list of selected candidates and aggrieved by the same, the present writ petition has come to be filed.

3.Learned counsel for the petitioner would set forth a slew of grievances as regards the manner in which the applications, according to him, have come to be considered, the exams conducted and results published, pointing out alleged lack of transparency in all the aforesaid stages of conduct of the exam. Specifically, he would state that the appointment for the post in question comprised two parts, a written examination followed by viva-voce. According to him, upon completion of the written examination, the marks obtained by the candidates must be displayed in public domain in order to enable them to be aware of their prospects for selection.

4. This argument is repelled by learned counsel for R2, who relies on a judgment of three Judges of the Hon'ble Supreme Court in the case of Pranav Verma and others Vs. Registrar General of the High Court of Punjab and Haryana at Chandigarh and another (2020 15 SCC 377). The Bench in the aforesaid judgment had considered various issues relating to the process followed for recruitment in various posts in the subordinate judiciary. Four issues had been crystalised by the Bench for their consideration, one being whether the marks obtained in the main examination prior to conduct of viva-voce are required to be disclosed even prior to the conduct of the second part.

5. At paragraph-28, the request was rejected in the following terms:

'28. As regards the petitioners' plea that marks of the Main Exam should be disclosed before conducting viva-voce, we are of the considered opinion that such a practice may not insulate the



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desired transparency, rather will invite criticism of likelihood of bias or favouritism. The broad principles to be laid down in this regard must be viewed keeping in view the selections for various categories of posts by different selecting authorities, for such a self-evolved criteria cannot be restricted to Judicial Services only. If the members of the interviewing boards are already aware of the marks of a candidate secured in the written examination, they can individually or jointly tilt the final result in favour or against such candidate. The suggested recourse, thus, is likely to form bias affecting the impartial evaluation of a candidate in viva-voce. The acceptance of the plea of the petitioners in this regard will also run contrary to the authoritative pronouncement of this Court in *Ashok Kumar Yadav v. State of Haryana* (1985 4 SCC 417). As the written examination assesses knowledge and intellectual abilities of a candidate, the interview is aimed at assessing their overall intellectual and personal qualities which are imperative to hold a judicial post. Any measure which fosters bias in the minds of the interviewers, therefore, must be done away with.'

In view of the aforesaid authoritative pronouncement of the Hon'ble Supreme Court, to the effect that not only is it unnecessary to reveal marks prior to the viva-voce, but, in fact, undesirable, this argument of the petitioner holds no water and is rejected.

6. As regards the process followed in the conduct of the exam in this particular case, the counter of the 2nd respondent has explained the same in the following terms:

'5.

For the post of Archaeological Officer 3 vacancies were notified. Of which 1 vacancy has been reserved for SC (A) (Women). The petitioner being a SC(General) candidate is eligible to compete for SC (General) and GT (General) vacancy only. As the vacancy is reserved for SC (A) (Women), if no Women candidate is available for SC (A) (Women), the need to fill up SC (A) (General), SC (Women), SC (General) respectively will arise. In the recruitment for the post of Archaeological



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Officer there was no female candidate in the SC (A) (Women) category. Hence, the substitutes of 2 candidates in the SC (A) (General) and 1 candidate in SC (Women) have been selected and they were admitted to Oral Test in the ratio of 1:3. The marks obtained by the last candidate i.e. substitutes selected for SC (A) (Women) category is as follows:-

Category and No. of vacancies	Candidate required for selection to Oral Test	The category in which substitutes selected	Cut off marks for the category selected
SC (A) (Women) - 1	3	SC (A) G-2	142.50
-	-	SC (Women) -1	156.00

As there is no vacancy meant for SC (G), the necessity of going in search of SC (General) does not arise, as the ratio has been satisfied. Hence, no cut off for SC (General) is given. The cut off marks for GT (General) is 222.

7. Learned counsel for the petitioner states fairly that he has no quarrel as regards the basis for selection as set out above. What remains is to decide whether the process has been transparent, and thus acceptable, or opaque and seemingly unfair. With the basis of selection finding favour with the petitioner and there being no error in the non-publication of the written test, prior to the oral test, the process followed for selection, is held to be transparent.

8. Suffice it to say that, upon completion of both limbs of the selection process, written and oral, it is open to any candidate who has participated in the examinations to seek particulars in regard to his/her performance in the both limbs of the examination. Upon receipt of such request, and upon finalisation of the process for selection including the process of counselling and issuance of appointment orders, it would be incumbent upon R2 to furnish the details as aforesaid, expeditiously and, in any event, in a time-bound fashion.

9. The prayer of the petitioner is for a quash of the selection list dated 11.01.2011 and consequential direction to R2 and R3 to prepare a valid shortlist of candidates by giving



weightage to M.A. History degree holders also on par with other degree holders and thereafter call them for oral test. No submissions have been adduced in regard to the contention that M.A. History degree holders should also be placed on par with other degree holders. The petitioner has obtained an order on 15.02.2011 that one post of Archaeology Officer is to be kept vacant and this order has also been made absolute on 09.11.2011.

10. This writ petition is thus dismissed. Let the needful be done within a period of six (6) weeks from today. No costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vs

To

1. The Secretary to Government,
Personnel & Administrative Reforms (M) Department,
Fort St. George, Chennai-600 009.
2. The Secretary,
Tamil Nadu Public Service Commission,
Greens Road,
Commercial Tax Office Building,
Chennai - 600 006.
3. The Principal Secretary & Commissioner
of Archaeology Department,
Halls Road, Egmore, Chennai-600 008.

+1CC to M/s.Row and Reddy Advocates, Sr.No.46404
+1CC to Mr.Karthik Rajan, Advocate, Sr.No.46435

W.P.No.3754 of 2011 and
MP.Nos.1, 3, 4 & 5 of 2011

SS (CO)
K.RK. (12.10.2021)