



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.07.2021
PRONOUNCED ON : 22.09.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.4397 of 2020
&
WMP.Nos.5193 & 5194 of 2020

M.Mageshwari

...Petitioner

Vs.

The Member Secretary,
Tamil Nadu Public Service Commission,
Frazeer Bazaar Street, VOC Nagar,
Park Town, Chennai.

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent to change the gender from male to female and consequently to include the petitioner's register number 2801023249 for the counseling with respect of the notification No.19/2019 dated 14.06.2019 issued by the respondent to be held on 19.02.2020.

For Petitioner : Mr.S.C.Vishwanath

For Respondent : Mr.K.V.Sanjeev Kumar for R1
Mr.V.Balamuralikrishnan,
Standing Counsel for TNPSC

O R D E R

By consent of both the parties, this Writ Petition is heard through Video Conferencing on 23.07.2021.

2. The petitioner herein is aggrieved against her non-selection to the posts called for by the respondent under Notification No.19 of 2019 dated 14.06.2019. It is the apprehension of the petitioner that since, while filling up the application she had wrongly selected the gender as 'Male' instead of 'Female', the respondent may disqualify her candidature.



3. It is the submission of the petitioner that she had inadvertently selected the gender as 'Male' instead of 'Female' in her application.

4. The Hon'ble Supreme Court in the case of Dolly Chhanda Vs. Chairman, JEE and others reported in 2005 (9) SCC 779, had held that every infraction of the rule relating to submission of proof need not necessarily result in rejection of candidature.

5. A learned Single Judge of this Court in the case of K.Ganapathy Vs. Member Secretary, TNPSC, Chennai passed in W.P.No.9289 of 2020, dated 05.02.2001, had also held that a minor error inadvertently committed by a candidate, should not deprive his valuable right of gaining employment in Public Service. The same view was reiterated in the case of M.Abiramadevi V. The Secretary, TNPSC, Chennai and another passed in W.P.No.4700 of 2020 dated 05.02.2021.

6. In the present case, the petitioner is otherwise qualified to be appointed in the selection process but for the minor mistake committed by her in the application. By applying the ratio held in the above cited decisions, it could be held that such a minor error of mentioning "Male" instead of "Female" as petitioner's gender, should not deprive her of the appointment in the Public Service. This Court has also taken note of the fact that the petitioner herein has already been provisionally appointed as Junior Assistant in the School Education Department with a rider that the appointment would be subject to the outcome of the present Writ Petition.

7. For all the foregoing reasons, there shall be a direction to the respondent herein to ratify the provisional appointment given to the petitioner as a Junior Assistant in the School Education Department, within a period of two weeks from the date of receipt of a copy of the order of this Court. The Writ Petition stands allowed accordingly. Consequently, connected Miscellaneous Petitions are closed. There shall be no orders as to costs.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

Note:Issue order copy on 24.09.2021
DP



To

The Member Secretary,
Tamil Nadu Public Service Commission,
Frazeer Bazaar Street, VOC Nagar,
Park Town, Chennai.

+lcc to Mr.S.V.Vishwanth, Advocate, S.R.No.48939

+lcc to Mrs.G.Hema, Advocate, S.R.No.48807

W.P.No.4397 of 2020

&

WMP.Nos.5193 & 5194 of 2020

RLD(CO)
CB(24/09/2021)