

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on 21 .12.2020

Order delivered on 05.02.2021

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.4700 of 2020

and

WM.P.No.5558 of 2020

M.Abiramadevi

..Petitioner

Vs

1. The Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road,
Chennai - 600 003.

2. The Controller of Examinations,
Tamilnadu Public Service Commission,
TNPSC Road,
Chennai - 600 003.

.... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying Writ of Certiorarified Mandamus or call for the records in respect of the impugned list dated 12.02.2020 of the candidates whose Register Numbers mentioned have been provisionally admitted to Original Certificate Verification and Counselling to the posts of junior assistant/field surveyor/village administrative officer included in Combined Civil Services Examination-IV(Group-IV) 2018-2019 and 2019-2020 insofar as to non inclusion of the register number of the petitioner based upon her eligibility, issued by the 1st respondent, the Secretary, Tamilnadu Public Service Commission, Chennai - 600 003, quash the same and direct the 1st respondent to select the petitioner for appointment to the posts included in Combined Civil Services Examination IV (Group IV) based upon her eligibility.

For Petitioner

: Mr.R.Ramachandran

For Respondents

: Mr.N.Balamuralikrishnan

O R D E R

The matter is taken up through web hearing.

The petitioner was one of the candidates who applied for consideration for recruitment to the notified posts in the Combined Civil Services Examination, Group-IV in No.19/2019 dated 14.06.2019.

2. The petitioner belongs to Backward Class (Women) category and she satisfied all the eligibility criteria prescribed in the notification. Pursuant to the notification, written examination was conducted on 01.09.2019 and the petitioner secured 252 marks out of 300 with overall rank of 5697 except for the post of Typist and Steno-typist Grade-III and the communal rank of 2654. As far as the typist post is concerned, she has secured overall rank 781 and communal rank 378. When the Certificate verification was called for, the petitioner, to her dismay found that her name was not in the list. The petitioner, therefore, approached the respondent office and she was informed that she had wrongly stated as if she studied SSLC in Tamil medium but the certificate was in fact, showing that she had studied SSLC in English medium. Therefore her candidature was not considered by the Commission due to her false declaration.

3. On this, the petitioner realised that while filling up the online application, she had mistakenly filled up as if she had studied SSLC in Tamil medium, but her intention was not to mislead the Commission, as the certificate which she was in possession and which was uploaded was showing as the person completed SSLC only in English medium. Therefore, the petitioner was not at all seeking any reservation earmarked for PSTM candidate. A small mistake committed by the petitioner in filling up the application form has resulted in her, not being called for certificate verification, despite she being successful in the selection.

4. This Court, while entertaining the writ petition earlier, had passed an interim order, permitting the petitioner to participate in the ongoing counselling/certificate verification and directed that the result of the petitioner shall not be declared until further orders from this Court, by order dated 09.03.2020. Thereafter, the petitioner has been permitted to attend the certificate verification and counselling.

5. In the meanwhile, due to Covid-19 situation, the matter could not be listed for hearing and after a lapse of several months, it was listed for hearing and on 21.12.2020, in response

to the notice, on behalf of the Commission, a detailed counter has been filed.

6. In the counter affidavit, it has been strongly contended that the instructions have been given very clearly in the notification itself to upload all the correct and required documents through authorised e-seva centres. The candidates alone are responsible for not uploading the correct certificates and if any candidate is found to be careless in uploading the certificates, such candidate has to face the consequence of not being considered for further stage of the selection.

7. In the counter affidavit number of decisions rendered by the Courts have been cited that terms and conditions laid down in the notification have to be adhered to strictly and the same cannot be relaxed in favour of some candidates. If any candidate commits an error or mistake, he or she alone is responsible for such mistake and its consequences.

8. Mr.N.Balamuralikrishnan, learned counsel appearing for the respondent Commissioner would submit that there are several candidates who failed to comply with the stipulation mentioned in the notification and they have been denied participation in the selection and therefore, no concession could be shown to any candidate. Every candidate is expected to follow the requirements of the Commission meticulously and if any deviation is to be accepted, it would only open the flood gates and the Commission will be deluged with thousands of claims of similar nature. That is why the Courts have consistently held that the instructions that are notified by the Commission need to be adhered to, without fail and no exception could be granted to any candidate.

9. On the other hand, the learned counsel for the petitioner would submit that the petitioner at the end of the day has become qualified to be selected not against PSTM quota but general quota in her category. The learned counsel has circulated a copy of the provisional selection of appointment of the petitioner dated 04.11.2020 as typist in the Tamilnadu Secretariat Service (Finance Department), in pursuance of the subject selection. The petitioner has also been directed to produce all the required documents on the basis of the provisional selection for appointment.

10. In view of the above positive development, this Court is not inclined to go into the contentious position adopted by the respondent Commission. No doubt, the Commission is under legal obligation to insist on the compliance of all candidates to every requirement which was part of the notification.

Nevertheless, in the case of this nature, when extremely minor error has been committed inadvertently by the candidate concerned, the same cannot be allowed to deprive the candidate of her valuable right to gain employment in Public Service. After all, the saying is "To err is human" and such inadvertent mistake committed by the candidate viz., the petitioner, cannot be visited with a punishment of being denied of a life time opportunity of gaining employment in Public Service. In this case, the petitioner, having been provisionally selected for appointment and if this Court were to accept the objections of the Commission, in the face of the positive development, it would only result in grave injustice to the petitioner, as she has rightly earned her place for provisional appointment on the basis of her performance and hard work.

11. In the above circumstances, this Court directs the Commission to pass further orders of clarification that the provisional appointment of the petitioner dated 04.11.2020 is not to be treated as subject to the pendency of this writ petition any more.

12. The Commission is therefore, directed to pass appropriate orders on the basis of the disposal of the present writ petition in favour of the petitioner herein within a period of four weeks from the date of receipt of a copy of this order.

13. The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

vsi

To

1. The Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road,
Chennai - 600 003.
2. The Controller of Examinations,
Tamilnadu Public Service Commission,
TNPSC Road,
Chennai - 600 003

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