

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDER RESERVED ON : 23.12.2020

ORDER DELIVERED ON : 05.02.2021

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.NO.4866 OF 2020

AND

W.M.P.NO.5747 OF 2020

J.Karthik

... Petitioner

Vs

Tamil Nadu Public Service Commission
rep. by Member Secretary,
TNPSC Road, Park Town,
Chennai - 600 003.

... Respondent

Prayer:

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration to declare that the action of the respondent in not including the name of the petitioner for the original certificate verification list issued by the respondent dated 12.02.2020 as arbitrary, illegal and in violation of natural justice and consequently direct the respondent to permit the petitioner to participate in both the counseling for the post included in the Combined Civil Services Examination-4, Group-IV examinations issued by the respondent in Notification No.19/2019 dated 14.06.2019.

For Petitioner : Mr.N.G.R.Prasad
for M/s.Row & Reddy

For Respondent : Mr.N.Balamuralikrishnan
Standing Counsel.

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O R D E R

The matter is taken up through web hearing.

This Writ Petition has been filed to issue a Writ of Declaration to declare that the action of the respondent not including the name of the petitioner for the original certificate verification list issued by the respondent dated

12.02.2020 as arbitrary, illegal and in violation of natural justice and consequently direct the respondent to permit the petitioner to participate in both the counseling for the post included in the Combined Civil Services Examination-4, Group-IV examinations issued by the respondent in Notification No.19/2019 dated 14.06.2019.

2. The petitioner is a B.Sc Graduate and has applied for consideration of his appointment in Group-IV Service in response to the notification No.19/2019 issued by the respondent Commission for recruitment to the Combined Civil Services Examination (Group-IV). The petitioner belongs to Backward Community category.

3. The petitioner in furtherance of the notification, appeared in the written examination held on 01.09.2019 and the result of the written examination was published on 12.11.2019. According to the petitioner he has secured 252 marks out of 300 and was placed under BC-OM communal category and he was also eligible for PSTM quota. The petitioner has secured over all rank of 5110 and communal rank 2397 for all the posts included in the notification and for the typist post, his over all rank is 688 and communal rank is 337.

4. The Commission published two separate lists for provisionally admitted candidates for the certificate verification, dated 30.11.2019. The respondent Commission has also issued communication on 03.12.2019 directing the candidates to upload all the original certificates in the website through e-seva centres recognised by the Government. The time for uploading all the certificates was fixed between 05.12.2019 and 18.12.2019. In pursuance of the directives, the petitioner approached a local e-seva centre and uploaded all the certificates on 13.12.2019 before the stipulated date. According to the petitioner that he has also been issued with the acknowledgement receipt for uploading all the certificates.

5. Thereafter, the petitioner found that his registration number was missing when the final certificate verification was originally scheduled to take place on 12.02.2020 and the candidates were asked to be present for the verification. The petitioner, thereafter, approached the Commission Office and was informed that e-seva centre through which he had uploaded all the certificate, has uploaded his PSTM certificate twice as against the slot for community certificate. In the absence of the community certificate supporting the claim of the petitioner, he was not allowed to participate in the final stage of selection, namely certificate verification and counselling. Since it was a minor error happened beyond the control of the petitioner, despite his eligibility and performance, he was

denied a valuable opportunity to get appointed in Government service. Therefore, the petitioner is before this Court.

6. When the matter is taken up for hearing it transpired that the petitioner was called for certificate verification vide communication dated 12.10.2020 and he participated in the Certificate Verification and subsequently, vide proceedings dated 04.11.2020, the petitioner was also declared of have been provisionally selected for appointment to the post of typist in Hindu Religious and Charitable Endowment Department. According to the proceedings, the provisional appointment was also on the basis of the participation of the petitioner in the counselling held on 04.11.2020 and the provisional selection is subject to the outcome of this writ petition.

7. On behalf of the respondent, Mr. Balamuralikrishnan, learned standing counsel stoutly opposed this petition stating that the notification clearly instructed the candidates to be extremely careful and follow the instructions scrupulously. It is not the fault of the Commission to deny participation of the petitioner earlier. As far as the Commission is concerned, they did not receive the community certificate supporting the claim of the petitioner of his communal status. Therefore, the Commission cannot be faulted with in not allowing the petitioner to participate in the further stage of the selection.

8. No doubt, the Commission cannot be faulted with for not inviting the petitioner for participation in the selection. In any event, in view of the subsequent development as set out above, the entire controversy as to whether the petitioner or the e-seva centre is to be blamed should be set at rest, as the petitioner has been eventually selected and appointed on the basis of his merit and performance.

9. When the petitioner has earned his appointment through his performance, nothing further is left open for adjudication, as that would not serve any purpose other than keeping the appointment of the petitioner in the air of uncertainty. In fact, this Court has allowed several writ petitions recently under similar circumstances and ultimately, the writ petitioners therein were provisionally selected and appointed. In many of those cases, this Court has passed interim orders, pending disposal of the writ petitions directing the Commission to permit them to participate in all the stages of selection. One of the recent writ petitions is W.P.No.5726/2020 dated 11.12.2020 and this Court had held ultimately as follows:

13. In any case, this Court has intervened and passed interim orders and on the basis of which, the petitioner was allowed to participate in the counseling provisionally and ultimately the petitioner has been favoured with the provisional appointment order also. When the petitioner is found to be fully eligible for appointment and being appointed also as Junior Assistant, this Court is of the view that, in all fairness, the issue must rest at that.

14. This Court is not inclined to fathom out as to who is to be blamed in the contention between petitioner and the respondent Commission for non availability of the certificate in question at the crucial time. According to this Court, such blame game is of no consequence, in view of the subsequent development wherein the petitioner has been issued a provisional appointment order.

15. In the above circumstances, the considered view of this Court is that the petitioner should be allowed to enjoy the fruition of the appointment without any strings attached to her appointment. This is particularly so, that the petitioner being a Destitute Widow, has earned her appointment in her own right.

16. Therefore, it is hereby declared that the appointment of the petitioner dated 28.11.2020, as Junior Assistant, Public Health and Preventive Department, is not to be construed as provisional appointment on account of pending of this writ petition. The Commission is directed to issue necessary clarification in this regard expeditiously.

10. In view of the above, it is hereby declared that the appointment of the petitioner dated 04.11.2020 as Typist in Hindu Religious and Charitable Endowment Department, is not to be construed as provisional appointment on account of the pending of this writ petition. The Commission is directed to issue necessary clarification in this regard expeditiously.

11. With the above observation, this Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vsi

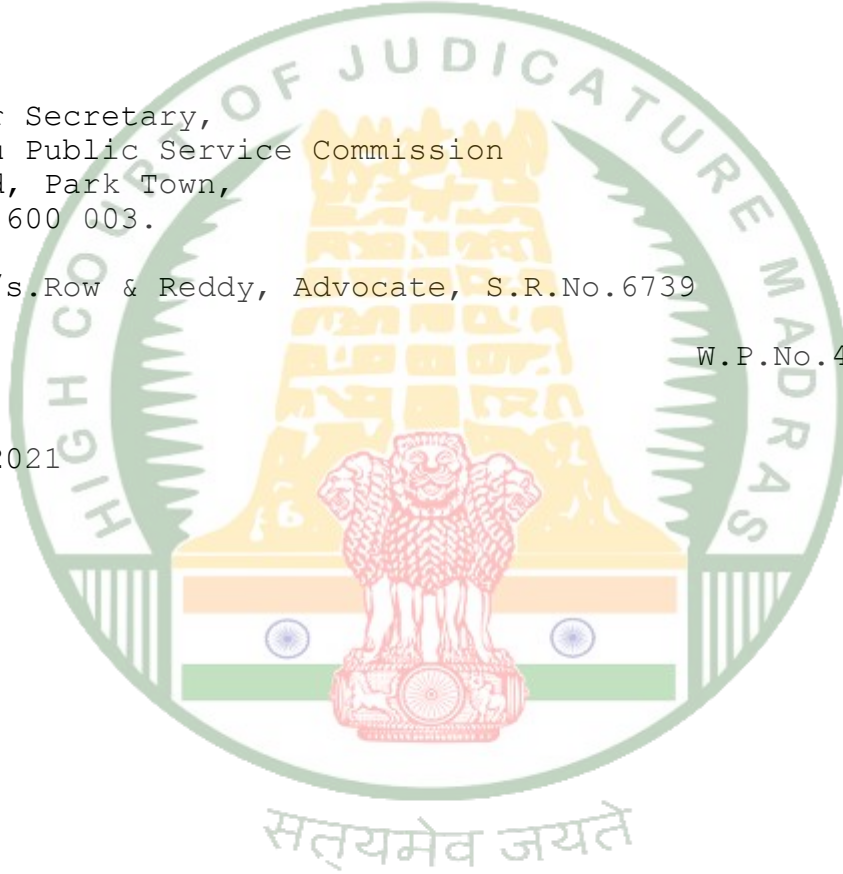
To

The Member Secretary,
Tamil Nadu Public Service Commission
TNPSC Road, Park Town,
Chennai - 600 003.

+1cc to M/s.Row & Reddy, Advocate, S.R.No.6739

W.P.No.4866 of 2020

SR(CO)
CS/11/02/2021



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