

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 23.12.2020

Pronounced on : 05.02.2021

CORAM :

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.6666 of 2020 and
W.M.P.Nos.7907 & 22866 of 2020

S.Manibharathi

... Petitioner

-Vs-

The Secretary,
Tamil Nadu Public Service Commission,
Poonga Nagar,
Chennai 600 003.

... Respondent

Prayer : Petition filed under Article 226 of the Constitution of India praying 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 06.03.2020 as arbitrary, illegal and violation of natural justice and consequently, direct the respondent to permit the petitioner to participate in the counselling for the posts 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.S.Arivazhagan

For Respondent : Mr.N.Balamurali Krishnan,
Standing Counsel

ORDER

This writ petition has been filed 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 06.03.2020 as arbitrary, illegal and violation of natural justice and consequently, direct the respondent to permit the petitioner to participate in the counselling for the posts 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 case of the petitioner is that the respondent Commission has issued notification on 14.06.2019, calling for candidates for recruitment to various posts in the Combined Civil Services Examinations-IV (Group IV) for the year 2019-20. In response to the notification, the petitioner submitted her application through Government recognized E-Seva Centre and also uploaded all the necessary certificates. According to the petitioner, the E-Seva Centre has also acknowledged the uploading of the certificates. The petitioner herein belongs to MBC Community and she having studied in Tamil Medium throughout was also entitled to be considered against PSTM Quota.

3. Pursuant to the notification, the written examination was conducted on 01.09.2019 and the result of the examination was published on 30.11.2019. The petitioner, in the written examination, has secured 228 marks out of 300 total marks. As per the statement of marks, the petitioner has secured overall rank for Typist as 4796 and the petitioner's communal rank for Typist is 1828 and the petitioner has secured overall rank for Steno-typist as 678 and the petitioner's communal rank for Steno-typist is 144 for the posts included in the notification.

4. The respondent Commission published three separate lists of provisionally admitted candidates for Certificate Verification on 30.11.2019 for various posts notified. Thereafter, the Commission issued proceedings on 03.12.2019, directing the candidates to upload the copies of the original certificates in the website through Government recognized E-Seva Centre. The time was fixed from 05.12.2019 to 18.12.2019 to upload all the required certificates.

5. The petitioner herein approached the E-Seva Centre recognized by the Government and uploaded all her certificates on 06.12.2019, within the stipulated time. According to the petitioner, she has also received the receipt of acknowledgement for uploading all her certificates. Thereafter, on 06.03.2020, the respondent issued two separate lists of candidates for the post of Stenotypist Grade III and Typist for counselling, whereas, the petitioner's name did not find a place. She therefore approached the Commission's office on 09.03.2020 to enquire about her non-inclusion for counselling and she was informed that the E-Seva Centre has uploaded the petitioner's Senior Grade Shorthand Tamil as against the slot for Senior Grade Typewriting Tamil. Therefore, her registration number was not included for certificate verification and counselling which was originally scheduled on 02.04.2020. According to the petitioner, she has certificate in Senior Grade Shorthand Tamil and Typewriting Tamil. But unfortunately, the E-Seva Centre had mistakenly uploaded the wrong certificate in the slot meant for Senior Grade Typewriting Tamil. Having no other option, the petitioner is before this Court.

6. In consideration of the petitioner's right being denied to participate in the final stage of selection despite her securing sufficient marks for consideration for appointment, this Court has passed an interim order on 19.03.2020, directing the respondent Commission to allow the petitioner to participate in the counselling without prejudice to her right in the outcome of the writ petition. It is transpired that the petitioner was permitted to participate in the counselling in pursuance of the direction passed by this Court.

7. After notice, Mr.N.Balamurali Krishnan, learned Standing Counsel entered appearance and filed a detailed counter affidavit including the vacate stay petition seeking to vacate the interim order granted by this Court on 19.03.2020. In the counter affidavit, it is spelt out elaborately as to the stipulation mentioned in the notification and the candidates were advised to scrupulously follow the instructions without fail. According to the respondent Commission, any mistake in uploading the required certificate, the candidate alone is responsible and on no account, such mistake could be condoned as that would only open the flood gates of other similar claims. In the counter affidavit, the Commission has also strongly pleaded that several judgments of the Hon'ble Supreme Court of India and other Courts held that the regulations prescribed in such notification have to be strictly followed and any deviation from that would not be an excuse for challenging the non-inclusion of the candidates' name in the selection.

8. The learned Standing Counsel for the respondent Commission would vehemently submit that there were thousands of candidates who responded to the notification and most of them have followed the instructions scrupulously. According to the learned Standing Counsel, the petitioner ought to have ensured that all the certificates were uploaded properly in the respective slots and she cannot be allowed to blame the E-Seva Centre for not uploading the certificates properly. If her explanation is to be accepted, then there would be thousands of similar claims flooding the Commission for similar concession and consideration.

9. The learned counsel for the petitioner on the other hand would submit that the minor and insignificant mistake happened when the certificates were uploaded through E-Seva Centre, cannot deprive the petitioner for her valuable right of being employed in Public Service. The learned counsel would submit that merely because there may be other similar claims in future cannot be a reason for the denial of the petitioner's right to be considered for appointment, particularly, when the petitioner has come up within the zone of consideration for appointment, in view of her performance and merit in the selection.

10. The learned counsel further submitted that during the pendency of the writ petition before this Court, the petitioner has also been selected and appointed as Stenotypist Grade III in Police Department on the basis of her selection vide proceedings of the Commission dated 01.12.2020. A copy of the endorsement made by the Commission's office, has also been produced before this Court. The said fact has also been acknowledged by the learned Standing Counsel for the respondent Commission. However, in the provisional appointment letter, it is stated that the appointment is subject to the outcome of the writ petition.

11. This Court though in agreement with the objections of the Commission that the candidates were expected to follow the instructions scrupulously and meticulously, yet, the mistake which is the subject matter of controversy would happen to any candidate despite all the caution and care taken in uploading the certificates. Such minor mistake is however not to be allowed to undermine the right of the petitioner of her valuable employment opportunity in Public Service. In this case, the petitioner having earned her berth in the final selection by merit, ought not to be denied the fruits of her hard work. The objection of the Commission that if the claim of the petitioner would be considered, it will open the flood gates, cannot be the basis for denial of the appointment to the petitioner, as this court is concerned only with the rights of the litigants before it and not the rights of the persons who are invisible and not before this Court. In any event, since the provisional appointment has been issued to the petitioner, now, in all fairness and in consonance with good conscience, the matter ought to be allowed to rest at that.

12. In view of the above development in favour of the petitioner, this writ petition is disposed of with the direction to the Commission to pass appropriate clarification namely, the appointment of the petitioner vide order dated 01.12.2020, not to be construed as subject to the pending of this writ petition. The Commission in this regard is directed to pass orders, expeditiously. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

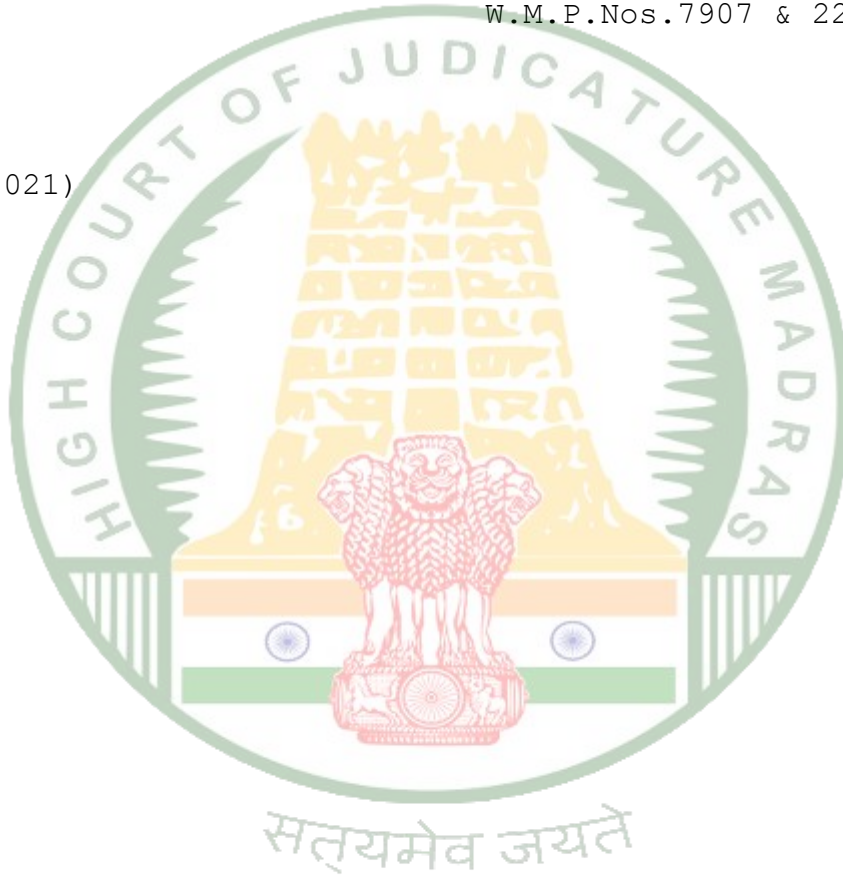
To

The Secretary,
Tamil Nadu Public Service Commission,
Poonga Nagar,
Chennai 600 003.

+1 Cc to Mr.S.Arivazhagan, Advocate sr 6462.

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AKII (CO)
SP(02/03/2021)



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