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IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 16.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.6937 of 2020
and
W.M.P.Nos.8279 & 8281 of 2020

V.Raveendran

...Petitioner

Vs

1.The Chairman,
Tamil Nadu Public Service Commission,
Frazer Bridge Road, V.O.C. nagar,
Park Town, Chennai 600 003.

2.The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road, V.O.C.Nagar,
Park Town, Chennai 600 003.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to consider the candidature of the petitioner under the Special Category of Ex-Servicemen in the category of Person studied through Tamil Medium (PSTM) for the post of Typist in the Notification No.19/2019.

For Petitioner : Mr.L.Chandra Kumar for
Mr.G.M.Anantha Kumar

For Respondents : Mr.N.Balamuralikrishnan,
Standing Counsel

ORDER

By consent of both the parties, this writ petition is taken up for final disposal.

2. The petitioner herein had participated in the selection process pursuant to the Notification No.19/2019 for the post of Typist. The petitioner herein is an Ex-Serviceman, who has made an application under Ex-serviceman quota as well as claiming priority as a Person who Studied in Tamil Medium (PSTM). Though the respondents have acknowledged that the petitioner is an Ex-



serviceman and also claims priority under PSTM quota, his candidature was not included in the selection list, which prompted the petitioner to file the present writ petition.

3. The learned counsel for the petitioner submits that the only reason for which the respondents have not included the petitioner's name in the selection list is that he had not enclosed his PSTM Certificate inadvertently, which was obtained by him later and that he was ranked at serial No.40, for which he was eligible to be included in the selection list under Ex-serviceman quota/PSTM priority, had he enclosed the PSTM Certificate.

4. Mr.Bala Muralikrishnan, learned Standing Counsel appearing for the respondents opposed the stand taken by the petitioner that the petitioner's candidature was not included in the selection list, since he had failed to include the PSTM certificate at the time of uploading the documents. The learned Standing counsel would submit that the instructions to the candidates are very clear to the effect that when the candidates fail to upload the required supporting testimonials, their candidatures are liable to be rejected and therefore, submitted that there is no infirmity in the decision of the respondents in not including the petitioner's name in the selection list.

5. The issue as to whether, the candidates failure to upload the PSTM certificate, which he/she comes to be in possession at a later stage, would deem to be a disqualification or not, has come up for consideration before this Court on various occasion and in those decisions, the failure in uploading the required certificate were held to be not fatal, in order to deprive such a candidate in the selection. Two such decisions in the cases of G.Tamilarasi Vs. Tamil Nadu Public Service Commission in W.P.No.5726 of 2020 dated 11.12.2020 and J.Karthik Vs. Tamil Nadu Public Service Commission in W.P.No.4866 of 2020 dated 05.02.2021, were dealt with these issues and favourable orders were passed in the Writ Petitions. It is stated across the bar that the Writ Appeal in W.A.No.1329 of 2021, as against the order in W.P.No.4866 of 2020, was dismissed by the Hon'ble Division Bench of this Court on 14.06.2021.

6. The issue now seems to be settled by the learned Single Judge of this Court and the relevant portion of the order in G.Tamilarasi's case (supra) reads as follows:-

"8. When the matter was taken up for hearing earlier, this Court has directed the Commission vide interim order dated 04.03.2020, to permit the petitioner to attend the counseling on any one of the dates scheduled without prejudice to the rights of the parties in the writ petition.



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Thereafter, it appears that the petitioner was permitted to participate in the counseling and the certificates as required by the Commission were also produced to the satisfaction of the Commission. Ultimately, the petitioner being found eligible for appointment in the category for which she laid her claim, the provisional appointment has also been issued appointing the petitioner as Junior Assistant in Public Health and Preventive Medicine Department, in pursuance of her selection pursuant to the subject Notification. However, the appointment is stated to be subject to the disposal of the present writ petition.

9. On behalf of the respondent Commission, a counter affidavit has been filed. In the counter affidavit, it is stated that when the candidates were informed of the selection procedure as stipulated in the Notification itself, it is the responsibility of the candidate to ensure that all the certificates were uploaded within the time stipulated by the Commission. As far as the Commission is concerned, the PSTM claim of the petitioner could not be considered in the absence of 10th Std certificate as a proof of petitioner having done her schooling in Tamil Medium of Instructions. Therefore, she could not be considered against the PSTM Quota.

10. Mr.NGR.Prasad, learned counsel for the petitioner, would submit that the petitioner cannot be faulted for the error, even assuming that the certificate in question has not been uploaded by the E-Seva Centre. The E~Seva Centre has in fact issued acknowledgment for having uploaded all the certificates, vide its receipt dated 07.12.2019. Therefore, the petitioner was under the bonafide impression that every requirement has been complied with.

11. In any event, he would submit that, now, the petitioner has been found to be eventually eligible for appointment and appointment order has also been issued, the writ petition may be disposed of in favour of the petitioner, taking note of the positive development.

12. Although in the facts and circumstances of the case, the petitioner cannot be faulted



7. The aforesaid extract is as self explanatory. As such, the failure in uploading the PSTM certificate cannot be held against the petitioner, in order to deprive him of his



selection. Since it is not in dispute that the petitioner is otherwise eligible to be included in the selection list, by applying the ratio laid down in the aforesaid decision, there shall be a direction to the respondents herein to include the candidature of the petitioner under the special category of Ex-Servicemen in the priority of PSTM in the selection list for the post of Typist, which was finalized, pursuant to the Notification No.19/2019 held by the respondents herein.

8. The respondents shall endeavor to include the petitioner's claim in the selection list and forward it to the concerned appointing authority atleast within a period of two weeks from the date of receipt of a copy of this order.

9. The writ petition stands allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sbn

To

1.The Chairman,
Tamil Nadu Public Service Commission,
Frazer Bridge Road, V.O.C. nagar,
Park Town, Chennai 600 003.

2.The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road, V.O.C.Nagar,
Park Town, Chennai 600 003

+1cc to Mr.G.M.Ananthakumar, Advocate, S.R.No.34274

W.P.No.6937 of 2020
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UM(CO)
SB(23/08/2021)