

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on 21.12.2020

Order delivered on 05.02.2021

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.9289 of 2020
and
WM.P.Nos.11325 & 11326 of 2020

K.Ganapathy

...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
praying Writ of Mandamus to direct the respondent to include the
petitioner's Register No.2203005393 for counselling with respect to the
notification No.19/2019 dated 14.06.2019 issued by the respondent for the

typist post.

For Petitioner : Mr.S.C.Vishwanth

For Respondents : Mr.N.Balamuralikrishnan
Standing Counsel

ORDER

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 Most Backward Class category and he satisfied all the eligibility criteria prescribed in the notification. Pursuant to the notification, written examination was conducted on 01.09.2019 and the petitioner has secured 256.5 marks with overall rank as 2821 and the communal rank as 1142. As far as the typist post is concerned, he has secured overall rank is 363 and the communal rank is 143. When the Certificate verification was called for, the petitioner, to his dismay found that his name was not in the list. The petitioner, therefore, approached the

respondent office and he was informed that he has wrongly stated that as if he studied SSLC in Tamil medium but the certificate was in fact, showing that he had studied SSLC in English medium. Therefore, his candidature was not considered by the Commission due to his false declaration.

3. On this, the petitioner realised that while filling up the online application, he had mistakenly filled up as if he had studied SSLC in Tamil medium, but his intention was not to mislead the Commission, as the certificate which 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 his, not being called for the certificate verification, despite he 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 final result of his selection shall be kept in a sealed cover until further orders from this Court,

by order dated 04.11.2020. 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 in the general quota in his category. The learned counsel has circulated a copy of the provisional selection of appointment of the petitioner dated 05.11.2020 as typist in the Tamilnadu

Secretariat Service (Commercial Taxes 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 his 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 he has rightly earned his place for provisional appointment on the basis of his 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 05.11.2020 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 in this regard 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 petitions are closed.

सत्यमेव जयते

05.02.2021

Speaking/Non-speaking

Internet : Yes/No

Index : Yes/No

vsi

WEB COPY

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



WEB COPY

W.P.No.9289 of 2020

V.PARTHIBAN.J.,

vsi



**Pre-delivery order in
W.P.No.9289 of 2020**

05.02.2021

WEB COPY