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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2021

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.18351 of 2020
and
W.M.P.No.22739 of 2020

T.Renuga

..Petitioner

Vs

Tamil Nadu Public Service Commission,
Rep. by its Secretary,
Anna Salai,
Chennai.

..Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondent to include the name of the petitioner in the list of candidates announced by the respondent in its notification dated 30.11.2019 based on her marks and rank and also in the list of candidates announced by the respondent in its notification dated 06.03.2020 for original certificate verification and counseling and to consider her candidature for the post of Steno Typist Grade- III in the recruitment pursuant to the notification bearing No.19/2019 dated 14.06.19 for Combined Civil Services Examination - 4 (Group IV) for the years 2018-2019 and 2019-2020 in accordance with recruitment rules and law.

For Petitioner : Mr.V.Ajoy Khose

For Respondent : Mrs.G.Hema,
Standing Counsel

O R D E R

This Writ Petition has been filed to issue a Writ of Mandamus to direct the respondent to include the name of the petitioner in the list of candidates announced by the respondent in its notification dated 30.11.2019 based on her marks and rank and also in the list of candidates announced by the respondent in its notification dated 06.03.2020 for original certificate verification and counseling and to consider her candidature for the post of Steno Typist Grade-III in the recruitment pursuant to the notification bearing No.19/2019 dated 14.06.19 for Combined Civil Services Examination - 4 (Group IV) for the years 2018-2019 and 2019-2020 in accordance with recruitment rules and law.



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2. The case of the petitioner is that she belongs to Paraiyar Community, classified as Schedule Caste. The respondent Commission issued recruitment notification bearing No.19/2019 dated 14.06.2019 for Combined Civil Services Examination-4 (Group IV) for the years 2018-2019 and 2019-2020 against the vacancies in the posts including Steno Typist Grade-III in the Tamil Nadu Ministerial Service, Tamil Nadu Judicial Ministerial Service, Tamil Nadu Survey and Land Records Subordinate Service, Tamil Nadu Secretariat Service and Tamil Nadu Legislative Assembly Secretariat Service. The number of posts announced was 6491 which included 784 posts for Steno Typists Grade-III. The petitioner being fully qualified for appointment to the post of Steno Typist Grade-III offered her candidature in response to the said notification. Written examination was conducted and the petitioner had attended the same on 01.09.2019. According to the petitioner, at that time of her participation in the selection, she was married and had given birth to a second daughter few months before on 06.05.2019. But despite the same, she had effectively equipped herself and performed well in the examination.

3. The result of the written examination was declared on 11.12.2019 through website. The petitioner had secured 160.5 marks out of 300 and was assigned ranking number 137 for the post of Steno Typist Grade-III. After the declaration of the result, the candidates were asked to upload the documents supporting their claim relating to their education qualification, community status etc. between 05.12.2019 and 18.12.2019 by notification dated 30.11.2019. According to the petitioner, unfortunately, during that time, her health was affected and she was taking treatment. She could not notice the notification nor was aware of its issuance. As she was not aware of the notification in the first place, the certificates/ documents could not be uploaded within the stipulated time.

4. The petitioner had come to know about the notification only when the original certificate verification and counseling was announced by notification dated 06.02.2020, as she found that she was not called for final verification and counseling. As a matter of fact, the cut off mark fixed for schedule caste candidate was 121 as against the mark secured by the petitioner 160.5.

5. While the matter stood thus, the respondent deferred the certification verification and counseling due to the pandemic situation and the final stage of original certificate verification and counseling for the post of Steno typist Grade-III was stated to be held on 07.12.2020. In the meanwhile, the number of vacancies were also revised and increased from 6491 to 9398 and for Steno typist Grade-III, the same was increased from 784 to 994. The petitioner being from marginalized and downtrodden community sent a



representation on 16.11.2020 to the respondent explaining the reason for not uploading the documents. As there was no response for the representation, the petitioner simultaneously approached this Court and filed the above writ petition.

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6. In the above writ petition, an interim order was passed on 07.12.2020. This Court, considering the plight of the petitioner herein permitted the petitioner to participate in the ongoing counseling. A direction was given by taking into consideration the reasons set forth by the petitioner for not uploading the certificates in support of her claim. On the basis of the direction by this Court, the petitioner was allowed to participate in the counseling and the certificates were also subjected to verification.

7. After completion of the entire selection process, subsequently, the petitioner was provisionally selected for appointment to the post of Steno Typist Grade-III in Technical Education Department for the year 2018-2019 to 2019-2020 based on her counseling held on 10.12.2020. The endorsement by the office informed of her provisional selection. It is also stated that her application is admitted provisionally and that her allotment is withheld subject to outcome of the final order to be passed in the present writ petition. The endorsement further stated that she has been allotted to the said post based on her rank vacancy position, rule of reservation of appointments etc.

8. The learned counsel Mr. Ajoy Khose would contend that this Court, in number of writ petitions earlier had allowed similar claims by directing the Commission to declare the result and make appointments and following the same, the department made appointments. Now that the petitioner has been selected, failure to upload the certificates by the petitioner herein may not be held against her. The learned counsel would submit that the petitioner, hailing from downtrodden society belonging to SC community, cannot be deprived of her golden opportunity to serve in public service. According to the learned counsel, she has secured high percentage of marks in her category and therefore, denial of employment to her would only result in miscarriage of justice.

9. Mrs. G. Hema, the learned Standing counsel appearing for the respondent strongly opposed grant of any relief to the petitioner. A counter affidavit has been filed on behalf of the Commission. In the counter affidavit several clauses as contained in the notification dated 14.06.2019 have been highlighted. The counter also highlighted certain decisions of the Hon'ble Supreme Court of India, pointing to the legal position that the clauses, as contained in the notification, need to be adhered strictly, without any deviation or departure and no concession could be expected from the recruitment agency. According to the counter affidavit, any relaxation of the provisions would result in injustice to



others and it would open the flood gates, with similar claims.

10. This Court cannot have any quarrel with the case laws cited on behalf of the Commission nor can have any different opinion as to the mandatory nature of the clauses incorporated in the notification which are highlighted in the counter, but what is to be seen in this case is that inadvertent omission to upload the documents by the petitioner cannot have a disproportionate consequence of snatching away, once in a life time opportunity of being employed in public service. This is particularly so, when the petitioner belonging to downtrodden and marginal community has come up with flying colours, securing 160.5 marks as against the cut off mark of 121 in the category of Schedule Caste community.

11. It would be unfair and unjust to deny her employment merely because she had not uploaded the certificates during the relevant time. This Court, though appreciates the stand taken by the Commission as it cannot make any concession or deviation to entertain such request by any candidate, but certainly, it can accommodate in the interest of the petitioner when this Court directs to do so.

12. The Division Bench judgment made in W.A.No.1629 of 2021 dated 16.09.202 has been cited. The Division Bench of this Court has also held, after following the Hon'ble Supreme Court's order and the relevant clauses in the notification, that the notification is to be strictly adhered to without any violation. While concluding as such, the Division Bench set aside the order of the learned Single Judge in that matter. The Division Bench order did not lay down any new law but merely followed the clauses as contained in the notification and the Hon'ble Supreme Court's orders.

13. As stated above, this Court is not passing any orders against the settled legal position but while exercising constitutional jurisdiction, this Court cannot lose sight of the sublime legal principle of equity, when it comes to rendering justice.

14. In this case, the petitioner has been selected now and it will be gross injustice if the employment of her is to be ignored altogether merely because she failed to adhere to the instructions issued by the notification. Though this Court cannot find fault with the action of the Commission, but at the same time, this Court cannot deny the relief to the petitioner.

15. The objections stated in the counter affidavit about the flood gate litigation or other such claim would surface cannot be the reason for denying the relief to the petitioner herein who is before this Court crying for redressal of her grievance. Being a constitutional Court, the majesty of this Court is better served when in extraordinary circumstances,



the application of the principles of the source of all laws namely equity to be resorted to not only to prevent miscarriage of justice but for justice to prevail.

16. In the said circumstances, the Writ Petition is allowed. The respondent is directed to declare the petitioner's selection and appointment in terms of the order dated 10.12.2020 and forward the same to the department concerned to enable the department to issue appropriate appointment order to the petitioner.

17. The Commission is directed to issue appropriate orders in this regard within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

vsi

To

The Secretary,
Tamil Nadu Public Service Commission,
Anna Salai,
Chennai.

W.P.No.18351 of 2020

SR(CO)
PR (07/12/2021)