



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON:	01.04.2021
DELIVERED ON:	07.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P. (MD) Nos.3331 & 4561 of 2020

and

WMP. (MD) Nos.2788, 3902, 3903 & 3905 of 2020

C.Kaliraj

... Petitioner in both WPs.

Vs.

1.The Chairman,
Tamil Nadu Public Service
Commission,
TNPSC Road,
Chennai-600 003.

2.The Secretary,
Tamil Nadu Public Service
Commission,
TNPSC Road,
Chennai-600 003.

3.The Controller of Examination,
Tamil Nadu Public Service
Commission,
TNPSC Road,
Chennai-600 003.

... Respondents

PRAYER in W.P. (MD) No.3331 of 2020: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to include the register number of the petitioner vide register number 2901022001 in the list of candidates provisionally admitted to original certificate verification and counseling to the posts of Junior Assistant/Field Surveyor/Village Administrative Officer included in combined Civil Service Examination-IV (Group-IV) 2018-19 and 2019-2020 and consequently, direct the respondents to give appointment to the petitioner as per the terms of the notification vide Notification No.19/2019 dated 14.06.2019.

PRAYER in W.P. (MD) No.4561 of 2020: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order dated 21.02.2020 issued by the second respondent and to quash the same as illegal and consequently, direct the respondents to include the register number of the petitioner vide



register number 2901022001 in the list of candidates provisionally admitted to original certificate verification and counseling to the posts of Junior Assistant/Field Surveyor/Village Administrative Officer included in combined Civil Service Examination-IV (Group-IV) 2018-2019 and 2019-2020 and consequently, direct the respondents to give appointment to the petitioner as per the terms of the notification vide Notification No.19/2019 dated 14.06.2019.

For Petitioner : Mr. C.M.Arumugam
For Respondents : Mr.Isaac Mohanl, Sr. Counsel
for Mr.D.Sivaraman,
Standing counsel for TNPSC

C O M M O N O R D E R

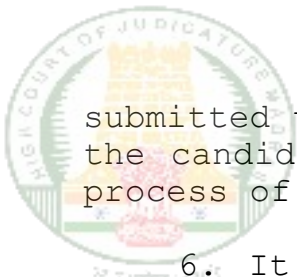
The petitioner in both the Writ Petitions had submitted On-line application to the Tamil Nadu Public Service Commission (TNPSC), pursuant to the recruitment Notification No.19 of 2019 dated 14.06.2019 for the posts in Group-IV Services. The petitioner had taken part in the written examination. After publication of the results and based on the claim made in his On-line application, he was called upon to upload the documents between 05.12.2019 and 18.12.2019 to substantiate his claim made in the On-line application.

2. During the certificate verification, the TNPSC was of the view that the petitioner herein, had claimed reservation under "Persons Studied in Tamil Medium" (PSTM) category, but had not uploaded the PSTM Certificate. By placing reliance on the terms and conditions enumerated in the instructions to the candidates given under the recruitment Notification dated 14.06.019, the candidature of the petitioner herein were rejected for non uploading of PSTM Certificate. A further disqualification was pointed out that the petitioner had wrongly stated his date of birth as 12.12.1981 instead of 21.12.1981. The petitioner's candidature was rejected on 21.02.2020. The petitioner herein is aggrieved against his non selection in the Writ Petitions.

3. Heard the learned counsel for the parties.

4. The learned counsel for the petitioner submitted that he had not claimed reservation under PSTM category and that the minor mistake of mentioning his date of birth as 12.12.1981 instead of 21.12.1981, should not be put against him.

5. The learned Senior counsel representing the learned Standing counsel for the TNPSC, however, submitted that the uploading of the PSTM Certificate is mandatory as per the instructions given to the candidates in the recruitment notification and failure to adhere to the instructions, would result in summary rejection. He further



submitted that the date of birth of a candidate gains relevance when the candidature of two candidates are found to be equal during the process of selection.

6. It is not in dispute that even if the petitioner had not been brought under the PSTM category, he would have qualified himself in the open category. The petitioner also claims that he had not sought for reservation under the PSTM category. In identical cases, this Court had dealt with the decision of the TNPSC in treating similarly placed candidates under PSTM category, only on the presumption that they had claimed reservation by referring to their medium of instructions as Tamil and this Court had allowed the Writ Petitions filed in **W.P.No.5812 of 2020 [M.Nisha V. The Secretary, TNPSC, Chennai and Another]** & batch dated 07.07.2021. The relevant portion of the order reads as follows:

" 8. It is the case of all the petitioners herein that they had not claimed any special reservation under PSTM category and even without applying the reservation under PSTM category, they have qualified themselves in the open category for selection to the posts. This aspect has not been disputed by the learned Senior counsel appearing for the TNPSC.

9. The respondents are unable to substantiate as to on what basis, they had come to the conclusion that all these petitioners had claimed reservation under PSTM category. Merely because the On-line application provides for a column, calling upon the applicants to mention their medium of instructions, it cannot be construed as if these applicants had claimed reservation under the PSTM category. It is reiterated that there is no column in the application, calling upon the candidates to exercise their option to claim reservation under PSTM category.

10. In all recruitment processes held by the Government or other Governmental bodies and where the rule of reservation is made applicable, irrespective of whether it is horizontal or vertical reservation, the recruiting authority cannot subject the candidates to the rule of reservation, just because they qualify themselves for such reservations. The method of recruitment adopted by the recruitment authorities ratifies this proposition, since the first stage of evaluating the On-line applications is on the merits in the open category for all the applicants universally and irrespective of whether they had qualified themselves for any horizontal or vertical reservation, their candidature was short listed in the open category on merits. For instance,



a candidate may belong to Most Backward Caste or Scheduled Caste or Scheduled Tribe community and when he/she qualifies themselves in the open category, their candidature cannot be considered under the communal reservation. It is needless to point out the right for employment is a fundamental right as guaranteed under the Constitution of India and depriving such an opportunity would also be violative of Article 14 of the Constitution of India. This proposition has been reiterated by the Hon'ble Supreme Court in the case of **Ritesh R. Sah Vs. Dr.Y.L.Yamul & Others** reported in **1996 (3) SCC 253**.

11. In the instant case, when the petitioners have qualified themselves in the open category itself, there was no justification on the part of the TNPSC to treat them as candidates claiming reservation under PSTM category and insisting for production of a PSTM Certificate. Hence, the proper course that ought to have been adopted by TNPSC is to straight away to include the names of the candidates who had qualified themselves in the open merit category and ought not to have resorted to demand supporting testimonials for any kind of reservation which the candidates may or may not claim. In these circumstances, the reason assigned the reason assigned by the TNPSC for rejection of the petitioners' candidature is unjust and illegal."

7. Since the petitioner herein, is similarly placed as that of the candidates in the aforesaid Writ Petitions, the reason for rejection of his candidature on the ground that he has not uploaded the PSTM Certificate, cannot be sustained.

8. Insofar as the mistake of wrongly quoting the petitioner's date of birth as 12.12.1981 instead of 21.12.1981 in the On-line application is concerned, the petitioner had uploaded various documents including his Higher Secondary Course Certificate dated March, 1999; Mark Statement of the petitioner in the Under Graduation Course dated 02.07.2007; Transfer Certificate dated 11.01.2010 and Disability Certificate dated 29.08.2018, which all evidences that the petitioner's date of birth was 21.12.1981. The Hon'ble Supreme Court in the case of **Charles K. Skaria & Others V. Dr.C.Mathew & Others** reported in **1980 (2) SCC 752 at paragraph 23**, had held that a method of convenience for proving possession of a qualification is merely directory. The Hon'ble Supreme Court in that case, had ratified the decision of the Selection Committee in giving credit for the diplomas of the candidates, although the authentic copies of the diplomas were not attached to the application for admission.



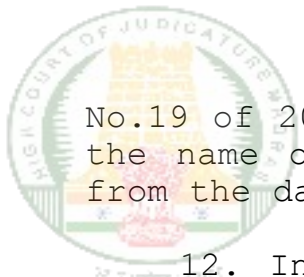
9. This proposition was again reiterated by the Hon'ble Supreme Court in the Appeal (Civil) No.6506 of 2004 dated 05.10.2004, arising in the case of **Dolly Chhanda Vs. The Chairman, JEE & Others**. By applying this ratio for the present case in hand, it could be said that when all other documents were uploaded by the candidate which evidences the date of birth, the wrongful mention of his date of birth in the application may not be fatal.

10. Furthermore, the commission of this mistake can be treated as a minor mistake. A learned Single Judge of this Court had an occasion to deal with a similar minor error made by a candidate and had invoked the powers under Article 226 of the Constitution of India in the case of **M.Abiramadevi Vs. The Secretary, TNPSC, Chennai & another in W.P.No.4700 of 2020** and passed orders in favour of the candidate therein. The relevant portion of the order reads as follows:-

"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 her 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 she has rightly earned her place for provisional appointment on the basis of her performance and hard work."

The aforesaid extract is self explanatory. As such, both the reasons assigned by the TNPSC for rejecting the petitioner's candidature, cannot be sustained.

11. For all the foregoing reasons, the impugned order dated 21.02.2020 issued by the second respondent, is hereby quashed. Consequently, there shall be a direction to the respondents to include the register number of the petitioner vide register number 2901022001 in the list of candidates provisionally admitted in the Combined Civil Service Examination-IV (Group-IV) vide Notification



No.19 of 2019 dated 14.06.2019. The TNPSC shall endeavor to include the name of the petitioner, atleast within a period of two weeks from the date of receipt of a copy of this order.

12. In fine, the Writ Petitions stand allowed. Consequently, connected Miscellaneous Petitions are closed. There shall be no orders as to costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

DP

To

1.The Chairman,
Tamil Nadu Public Service
Commission,
TNPSC Road,
Chennai-600 003.

2.The Secretary,
Tamil Nadu Public Service
Commission,
TNPSC Road,
Chennai-600 003.

3.The Controller of Examination,
Tamil Nadu Public Service
Commission,
TNPSC Road,
Chennai-600 003.

+1 CC to M/s.C.M.ARUMUGAM, Advocate (SR-21754[F] dated 08/07/2021)
W.P. (MD) Nos.3331 & 4561 of 2020
and
WMP. (MD) Nos.2788, 3902,
3903 & 3905 of 2020
07.07.2021

SSS(CO)
LR (20.07.2021) 6P 5C