BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 26.03.2021
CORAM:
THE HONOURABLE MR.JUSTICE M.DHANDAPANI
W.P.[MD]No.6917 of 2021

and

W.M.P.[MD]No.5310 of 2021

K.Nagarajan ... Petitioner

Vs.

1.The Secretary,
Tamil Nadu Public Service Commission,
Fort St. George,
Chennai - 06.

2.The Commissioner,
Commercial Tax Department,
Chennai.

3.The Joint Commissioner,
Commercial Tax,
Department of Commercial Tax,
Chennai. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to issue appointment order pursuant to the selection of the petitioner on 12.10.1994 by considering the representation of the petitioner dated 04.02.2021, within a time frame that may be fixed by this Court.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mrs.J.Padmavathi Devi,
Special Government Pleader

O R D E R
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By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

2.The case of the petitioner is that the petitioner belong to Kattunayakan Community. After completing his 12th standard, the petitioner secured admission in the M.B.B.S. Course. Since, he could not get the community certificate, he was not able to join in the said course. Thereafter, by the order of this Court in W.P.[MD] No.12423 of 1992, the community certificate was issued to the petitioner. While that being so, the petitioner applied for the post of Assistant / Typist and got selected and posted in the Commercial Tax Department, Chennai. However, by order dated 28.10.1994, the petitioner's appointment was withheld saying that only after evaluation of his community certificate, he would be considered.

3.He further submitted that since the temporary community certificate was cancelled by the District Collector, Madurai, the petitioner filed O.S.No.360 of 1995 and the learned Additional District Judge, Madurai, allowed the said suit vide order dated 09.02.1996, declaring that the petitioner belong to Kattunayakan Community. Thereafter, the petitioner made a representation to the respondents seeking appointment. The Assistant commissioner, Commercial Tax Department, vide communication dated 09.02.2018, informed that since no information was received from the District Revenue Officer, Madurai to TNPSC regarding the genuinity of his community certificate, his case could not be considered. Thereafter, the petitioner made several representations to the first respondent enclosing his community certificate and the last of such representation being on 04.02.2021. Since, no response was forthcoming, the petitioner is before this Court by way of this writ petition.

4.The learned Counsel for the petitioner submitted that admittedly, the petitioner's temporary community certificate was cancelled by the District Collector, Madurai and the said cancellation order was challenged on the file of the Additional District Judge, Madurai and the said suit was decreed in favour of the petitioner, pursuant to which, the petitioner was issued with a community certificate. Hence, the petitioner is entitled for appointment. Accordingly, this Court may issue necessary directions to the respondents.

5.Heard the learned Counsel on either side.

6.The issue arising in the present case is whether the petitioner possessed the community certificate at the relevant point of time when the selection was made. In the present case, the petitioner was only in possession of temporary community certificate and he could not prove the genuinity of the same. Hence, this Court, after a lapse of so many years, cannot issue a direction to consider the petitioner's appointment which was made in the year 1994. Hence, the claim of the petitioner cannot be considered at this point of time. However, this order will not stand in the way of the petitioner to participate in the future selection.

7.Accordingly, this Writ Petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MR

To

1.The Secretary,
Tamil Nadu Public Service Commission,
Fort St. George,
Chennai – 06.

2.The Commissioner,
Commercial Tax Department,
Chennai.

3.The Joint Commissioner,
Commercial Tax,
Department of Commercial Tax,
Chennai.

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-14039[F] dated 29/03/2021)

+1 CC to M/s.SPL GP (SR-14370[F] dated 30/03/2021)

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GS (19.05.2021) 3P 6C