



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.06.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.8635 of 2021

1.G.Suresh

2.B.Sakthivel

... Petitioners

Vs.

1.The State of Tamil Nadu,
Represented by its Principal Secretary,
Highways Department,
Fort St. George,
Chennai-600 059.

2.The State of Tamil Nadu,
Represented by its Principal Secretary,
Public Works Department,
Fort St. George,
Chennai-600 059.

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

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to consider the first petitioner's representation/objections, dated 18.03.2021, within a time fame fixed by this Court.

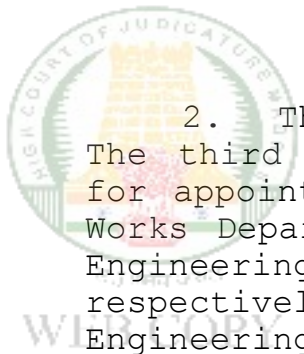
For Petitioner: Mr.A.Sivasubramanian

For R1 & R2 : Mr.P.Subbaraj
Government Advocate

For R3 : Mr.D.Sivaraman

ORDER

The petitioner has filed the present writ petition for a direction to the respondents to consider the first petitioner's representation/objections, dated 18.03.2021, within a time fame fixed by this Court.



2. The petitioners are Diploma holders in Civil Engineering. The third respondent issued Notification calling for applications for appointment to the post of Junior Draughting Officer in Public Works Department, falls within the Tamil Nadu Highways Subordinate Engineering Service and Tamil Nadu Engineering Service, respectively. As per the Special Rules for Tamil Nadu Highways Engineering Subordinate Service under Branch I-Engineering Branch, one of the category of officer is Junior Draughting Officer. The appointment to the said post of Junior Draughting Officer will be having various methods and one such method is direct recruitment. As per Rule 6 of the said Rules, under the heading other qualifications, no person shall be eligible for appointment to the post specified, unless he possesses the specified qualification under Rule 8. The Tamil Nadu Engineering Subordinate Service Rules has provided the qualifications for appointment of Junior Draughting Officer as follows:-

"(i) A Diploma in Civil Engineering or its equivalent from any University or Institution awarded by the State Board of Technical Education and Training of the concerned State Government or.

(ii) A pass in Section A and B (civil) of the Associate Member of Institution of Engineers (India) Examinations or.

(iii) A pass in the trade Test for draughtmen (Civil) conducted by Director General of Resettlement and Employment and by the National Council for Vocational Training, Government of India."

Similarly, as per the Tamil Nadu Engineering Subordinate Service Rules, a Diploma in Civil Engineering is also one of the qualification to the post of Junior Draughting Officer. Hence, the petitioners are eligible to apply, for the said post.

3. According to the petitioners, the respondents had invited Applications from eligible candidates for direct recruitment to the posts under Combined Engineering Subordinate Services cadre, vide Advertisement No.581, Notification No.06/2021, dated 05.03.2021. The following posts for which the said recruitment process is notified:-

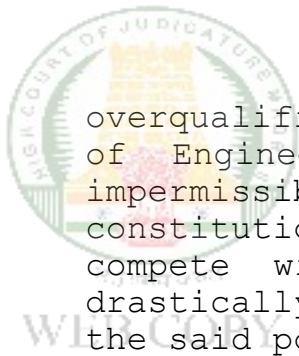
(I) Junior Draughting Officer (Highways Department),

(ii) Junior Draughting Officer (Public Works Department),

(iii) Junior Technical Assistant (Handlooms & Textiles Department)

(iv) Junior Engineer (Fisheries Department).

4. The Educational qualifications prescribed for the above mentioned posts is, Diploma in Civil Engineering or its equivalent. The petitioners are similarly placed Diploma holders and they have applied for the above posts, namely, Junior Draughting Officer (Highways Department), Junior Draughting Officer (Public Works Department) and Junior Engineer (Fisheries Department). The petitioners came to know that candidates with higher educational qualification, viz., Bachelor of Engineering (Civil Engineering) (Direct Entry) are applying for the said posts. According to the petitioners, the educational qualification prescribed for the posts



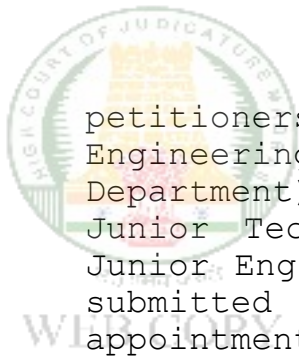
overqualified candidates with degree qualifications viz., Bachelor of Engineering (Civil Engineering) (Direct Entry) is legally impermissible and against principles of service law and constitutional mandates. By permitting the overqualified persons to compete with the Diploma holders, like the petitioners, will drastically affect the petitioners' chances of getting selected to the said posts.

5. The learned counsel appearing for the petitioners further submitted that the recruitment for the posts of Assistant Agricultural Officer and Assistant Horticultural Officer were notified by the third respondent under Notification No.2/2021, dated 05.02.2021. Under the said Notification, two years Diploma Course in Agriculture has been prescribed as educational qualification for the aforementioned posts respectively. Further, it has been categorically mentioned in the aforementioned Notification, persons with higher educational qualification i.e Degree holders are ineligible for appointment. The non-prescription of such disqualification for the posts of Junior Draughting Officer (Highways & PWD) & Junior Engineer (Fisheries) amounts to serious discrimination. The learned counsel appearing for the petitioners also pointed out that recruitment for the posts covered under Combined Engineer Services is likely to be notified during the month of April, 2021, as per the Tentative Planner for the year 2021 issued by the third respondent herein. Diploma holders, including the petitioners herein are not eligible to participate in the recruitment process for the said posts, as the minimum prescribed educational qualification would be Degree in Engineering. Therefore, permitting the Engineering Degree holders to compete for the aforementioned posts Junior Draughting Officer (Highways & PWD), would amount to denial of opportunity for the petitioners herein, who are only a Diploma holders and the same is against the spirit of equality. Highlighting the above facts and legal implications, the first petitioner made a detailed representation to the respondents herein, seeking not to accept or entertain applications from over qualified candidates with degree qualification for the above mentioned posts. After filing the writ petition, the petitioners gave another representation, dated 22.05.2021.

6. Though various averments have been made in the writ petition, when the matter is taken up for hearing, the learned counsel appearing for the petitioners submitted that if a direction is issued to the respondents to consider the representation of the petitioners, dated 22.05.2021, it would suffice.

7. Heard the learned counsel appearing for the petitioners, learned Government Advocate appearing for the respondents 1 & 2 and the learned Standing counsel appearing for the third respondent and perused the materials available on record.

<https://hcservices.courts.gov.in/services> On perusal of the above materials, it is seen that according to



petitioners, after prescribing qualification as Diploma in Civil Engineering for the posts of Junior Draughting Officer (Highways Department), Junior Draughting Officer (Public Works Department), Junior Technical Assistant (Handlooms & Textiles Department) and Junior Engineer (Fisheries Department), accepting the applications submitted by B.E, degree holders and considering them for appointment, it will affects the opportunity of diploma holders, like the petitioners in getting appointments. The diploma holders are now have to compete with degree holders for appointment to the posts, for which, as per Rule, educational qualification is diploma in Civil Engineering or its equivalent.

9. In view of the above, the petitioners are directed to send the representation along with copy of this order to the respondents, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such representation, the respondents are directed to consider the same and pass orders on merits and in accordance with law, taking into consideration the educational qualification fixed for the post of Junior Draughting Officer (Highways Department), Junior Draughting Officer (Public Works Department) and Junior Engineer (Fisheries Department) and also the restrictions imposed with regard to qualification of BE in the Notification, issued for the posts of Assistant Agricultural Officer and Assistant Horticultural Officer.

10. With the above direction, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Principal Secretary,
Highways Department,
Fort St. George,
Chennai-600 059.



2.The Principal Secretary,
Public Works Department,
Fort St. George,
Chennai-600 059.

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

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-20405[F] dated 28/06/2021)

+1 CC to M/s.SPL GP (SR-20447[F] dated 28/06/2021)

W.P. (MD)No.8635 of 2021
25.06.2021

AS (07.07.2021) 5P 6C