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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	01.04.2021
Pronounced on	07.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P. (MD) Nos.13825 & 5981 of 2020

and

W.M.P. (MD) Nos.11470, 11473, 5180 & 5181 of 2020

Nelaparnisha

...Petitioner in both cases

Vs.

Tamil Nadu Public Service Commission,
Rep by its Secretary,
Park Town, VOC Nagar,
Chennai-600 003.

...Respondent in both cases

PRAYER in W.P.No.13825 of 2020: Writ Petition filed under Article 226 of Constitution of India praying to issued a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the respondent office vide email communication dated 21.09.2020 in pursuant to the Notification No:19/2019 dated 14.06.2019 and quash the same as illegal and consequently direct the respondent to select and appoint the petitioner in the post of Steno-Typist(Grade III) included in Combined Civil Services Examination-IV (Group-IV) 2018-19 and 2019-20.

PRAYER in W.P.No.5981 of 2020: Writ Petition filed under Article 226 of Constitution of India praying to issued a Writ of Declaration, to declare the provisional selection of candidates to the original certificate verification and counseling to the post of Steno-Typist (Grade-III) included in Combined Civil Services Examination-IV (Group-IV) 2018-19 and 2019-20 as illegal in so far as not including the petitioner and consequently for a direction, directing the respondent to select and appoint the petitioner in the post of Steno-Typist (Grade-III) under the category of Backward Class Muslim-Woman (BCM(W)) in view of the marks secured by the petitioner in the written examination conducted on 01.09.2019 in the event of the petitioner coming within the zone of consideration within the time period stipulated by this Court.

For Petitioner : Mr.R.Karunanidhi (in both cases)
For Respondent : Mr.Isaac Mohanlal, Sr. Counsel
for Mr.D.Sivaraman
Standing counsel for TNPSC



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 her On-line application, she was called upon to upload the documents between 05.12.2019 and 18.12.2019 to substantiate her claim made in the On-line application.

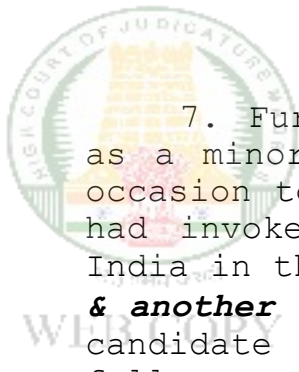
2. Her application for the posts of Steno-Typists, Grade-III included in Group-IV Services for the year 2018-2019 and 2019-2020 has been rejected for not having uploaded her Typewriting Tamil Senior Grade Certificate, communicated to her through an impugned email communication dated 21.09.2020. The petitioner herein is aggrieved against the omission of her name in the selection list, which has been challenged in W.P.No.5981 of 2020 and the impugned rejection email communication dated 21.09.2020, is challenged in W.P.No.13825 of 2020.

3. Heard the learned counsel for the parties.

4. It is not in dispute that, had the petitioner uploaded her Typewriting Tamil Senior Grade Certificate in time, her candidature would not have been rejected since she is otherwise qualified to be included in the selected list of candidates. A mere failure to upload the supporting certificate, cannot be treated as a 'major flaw' in order to deprive a candidate's rightful claim for appointment, when the petitioner possesses the required Typewriting Tamil Senior Grade Certificate and has only allegedly failed to upload the certificate at the required time, such an infirmity can be construed as a minor flaw.

5. 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.

6. 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, non uploading of the required Typewriting Tamil Senior Grade Certificate in the application may not be fatal.



7. 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."

8. By taking into account the ratio held by the Hon'ble Supreme Court in the cases of *Charles K. Skaria (supra)* and *Dolly Chhanda (supra)*, as well as the decision of this Court in *Abiramadevi's case (supra)*, the failure on the part of the petitioner to upload the required Typewriting Tamil Senior Grade Certificate, should not deprive her of the selection. Consequently, the impugned order of rejection requires to be interfered with and thereby facilitate the candidature of the petitioner to be included in the selection list.

9. In the result, the impugned E-mail Communication dated 21.09.2020 passed by the respondent herein, is hereby quashed. Consequently, there shall be a direction to the respondent herein, to include the name of the petitioner herein, for the posts of Steno-typists (Grade-III) in the Combined Civil Services (Group-IV) for the year 2018-19 and 2019-2020, within a period of two weeks from the date of receipt of a copy of this order.



PRAYER in W.P.No.13825 of 2020: Writ Petition filed under Article

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

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar(CS)

DP

To

The Secretary,
Tamil Nadu Public Service Commission,
Park Town, VOC Nagar,
Chennai-60 003.

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and

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DKS (CO)

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