



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.01.2021

CORAM

**THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MRS.JUSTICE S.ANANTHI**

**W.A. (MD)No.1214 of 2020
and C.M.P. (MD) No.6719 of 2020**

T.Maragatham

... Appellant/Writ Petitioner

Vs.

Tamil Nadu Public Service Commission,
Rep. by its Secretary,
Frazer Bridge Road,
Chennai - 3.

... Respondent/Respondent

Prayer : Appeal filed under Clause 15 of the Letters Patent Act against the order passed by this Court in W.P.(MD)No.19852 of 2018, dated 04.02.2020.

Prayer in WP(MD). 19852/ 2018 :

Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining tot he order passed by the respondent in his proceedings in dated 30.08.2018 and quash the same and direct the respondent to consider the petitioner for appointment to the post of Executive Officer Grade I under MBC/DC-General Category as per the marks obtained in the selection process.

For Appellant : Mr.P.Ganapathi Subramanian

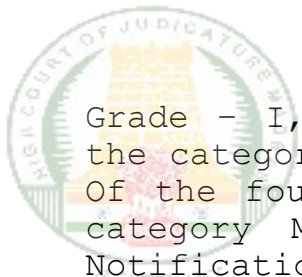
For Respondent : Mr.D.Sivaraman
Standing Counsel

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J U D G M E N T

(Judgment of the Court was delivered by M.M.SUNDRESH, J)

The appellant, who is one among the eligible candidates for appointment by direct recruitment to the post of Executive Officer,



Grade - I, has filed the Writ Petition, seeking entitlement under the category, namely, MBC/DC(G). Totally, four posts were earmarked. Of the four posts, the appellant sought one under the reservation category MBC/DC(G). These four posts have been notified, vide Notification No.25/2017, dated 14.11.2017.

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2.In the meanwhile, a Government Order was passed in G.O.(Ms) No.21, Welfare of Differently Abled Persons (DAP3.2) Department, dated 30.05.2017. Accordingly, the said post, for which the appellant sought to get herself filled up, has been earmarked for MBC/DC(DAP) Acid Attack Victim. As there was no candidate under the said category to be filled up, the post was left unfilled and carried forward. Under those circumstances, the appellant filed the Writ Petition. Learned Single Judge has dismissed the Writ Petition *inter alia* holding that the amendment to the enactment with particular reference to Section 27(b) of the Tamil Nadu Government Servants (Conditions of Service) Act has come into force from 19.04.2017 and therefore, the same stands applicable. It was further held that the Government Order was passed on 30.05.2017 to comply with the mandates of Section 27(b) of the Tamil Nadu Government Servants (Conditions of Service) Act.

3.Mr.P.Ganapathi Subramanian, learned counsel for the appellant submitted when the vacancies were notified, the classification was only MBC/DC(G) and not MBC/DC (DAP) Acid Attack Victim. Therefore, the Rule cannot be changed after the game has been started. Now, the post is yet to be filled up and hence, appropriate direction will have to be issued in this regard.

4.We are unable to concur with the submissions made by the learned counsel for the appellant. Admittedly, the amendment to Section 27(b) of the Tamil Nadu Government Servants (Conditions of Service) Act and the Government Order, dated 30.05.2017, were prior to the notification, dated 14.11.2017. Secondly, there is no change in the notification with respect to filling up the post of MBC/DC candidates. Even subsequent introduction is only an addition to facilitate differently abled persons belonging to MBC community, which is also a De-notified Community. Therefore, it is a case of horizontal reservation. The Rule concerned further provides that if the vacancy cannot be filled up, it can be interchanged among the five categories of disabilities, that too with the prior approval of the Government. Only when the other four categories are not available, then, it shall be filled up with any person other than one without disability. Thus, looking from any perspective, we are unable to agree with the submissions made by the learned counsel for the appellant.



5. In such view of the matter, we find no error in the order of the learned Single Judge, warranting interference. Accordingly, the Writ Appeal is dismissed. Consequently, connected C.M.P. is also dismissed. No costs.

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Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sj

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

The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
Chennai - 3.

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-320[F] dated 06/01/2021)

W.A. (MD)No.1214 of 2020

04.01.2021

NR (19/01/2020) 3P : 3C