



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Monday, the Eighteenth day of April Two Thousand Twenty Two

PRESENT

THE HON'BLE MR.JUSTICE MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CMP.No.5908 of 2022

IN WA.No.2292 of 2021

P.SATHEESH PRABU, [PETITIONER]
S/O.P.PANNEER SELVAM,
NO.18,KAVI KALA MEGA STREET,
CUDDALORE DISTRICT,
PIN CODE - 607003.

Vs

1 THE TAMILNADU PUBLIC SERVICE [RESPONDENTS]
COMMISSION, REP. BY ITS SECRETARY,
FRAZER BRIDGE ROAD, CHENNAI-600003.

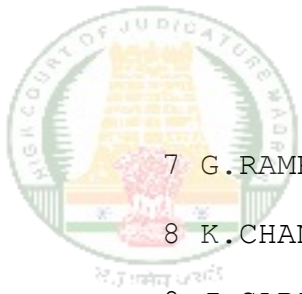
2 THE DIRECTOR,
TAMILNADU MOTOR VEHICLE MAINTENANCE
DEPARTMENT, TRANSPORT COMMISSIONER,
VELACHERY, CHENNAI-42.

3 THE TRANSPORT COMMISSIONER,
CHEPAUK, CHENNAI-5.

4 R.VIJAYARAJ
S/O.K.RAJAMANI,
REG.NO.010002022,
C/O SECRETARY TO TNPSC,
TNPSC ROAD, CHENNAI-3.

5 K.ILAVARASAN

6 I.SIVA NATARAJAN
REG.NO.010001234,
C/O.SECRETARY TO TNPSC,
TNPSC ROAD, CHENNAI-3.



7 G.RAMKUMAR

8 K.CHANDRASEKARAN

9 J.SARANYA

10 P.SURESH

11 D.VIMALRAJ

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to Modify the Judgment/orders of this Hon'ble Court dated 18.03.2022 passed in W.A.No.2292 of 2021 (IN CMP.No.5908 of 2022).

Order : This petition coming on this day for hearing upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.N.SUBRAMANIYAN, Advocate for the petitioner and of MR.P.WILSON, STANDING COUNSEL assisted by MR.KARTHIK RAJAN, Advocate for the 1st Respondent/TNPSC, the court made the following order:-

(Order of the Court was made by the Hon'ble Chief Justice)

This application has been filed to seek modification of the order dated 18.03.2022 passed in W.A.No.2292 of 2021.

2. Learned counsel for the applicant submitted that the learned Single Judge passed an interim order directing the Tami Nadu Public Service Commission to disclose the marks obtained in the written examination before the interview/viva-voce. The order aforesaid was assailed by the Tamil Nadu Public Service Commission mainly on the ground that the direction aforesaid was rendered *de hors* the judgment of the Supreme Court in the case of **Pranav Verma and others v. Registrar General of the High Court of Punjab and Haryana at Chandigarh and another, reported in (2020) 15 SCC 377**. The disclosure of marks obtained in the written examination prior to the viva-voce may have serious consequence, as given in paragraph 28 of the judgment in **Pranav Verma**, supra, and, for ready reference, paragraph 28 is quoted hereunder:

"28. As regards the petitioners' plea that marks of the Main Exam should be disclosed before conducting viva-voce, we are of the considered opinion that such a practice may not insulate the desired transparency, rather will invite criticism of likelihood of bias or favouritism. The broad principles to be laid down in this regard must be viewed keeping in view the selections for various categories of posts by different selecting authorities, for such a self-evolved criteria



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cannot be restricted to Judicial Services only. If the members of the interviewing boards are already aware of the marks of a candidate secured in the written examination, they can individually or jointly tilt the final result in favour or against such candidate. The suggested recourse, thus, is likely to form bias affecting the impartial evaluation of a candidate in viva-voce. The acceptance of the plea of the petitioners in this regard will also run contrary to the authoritative pronouncement of this Court in *Ashok Kumar Yadav v. State of Haryana*, (1985) 4 SCC 417. As the written examination assesses knowledge and intellectual abilities of a candidate, the interview is aimed at assessing their overall intellectual and personal qualities which are imperative to hold a judicial post. Any measure which fosters bias in the minds of the interviewers, therefore, must be done away with."

Paragraph 28 refers to the consequence if the suggested recourse given before the Apex Court for disclosure of the marks is accepted. It was held that the suggested recourse is likely to form bias affecting the impartial evaluation of a candidate in the viva-voce and it otherwise runs counter to the judgment in the case of **Ashok Kumar Yadav**, supra. In view of the above, the direction given by the learned Single Judge to the Tamil Nadu Public Service Commission to disclose the marks obtained in the written examination to the candidates before the viva-voce was set aside keeping all issues open for the parties to argue in the pending writ petitions.

3. Learned counsel for the applicant submitted that the order passed by this Court in the appeals needs modification. It is to keep all the issues open, which includes as to whether a direction can be given to disclose the marks obtained in the written examination before the viva-voce and with the aforesaid, the application may be allowed. The prayer aforesaid has been made in the light of the fact that the Apex Court while referring to the judgment in the case of **Ashok Kumar Yadav**, supra, did not consider the issue involved therein. In the case of **Ashok Kumar Yadav**, supra, the issue was as to whether a member of interviewing board can proceed despite knowing that his relatives are going to appear in the viva-voce and, therefore, while referring to the judgment in the case of **Ashok Kumar Yadav**, supra, the Apex Court in the case of **Pranav Verma**, supra, should not have given finding regarding the disclosure of marks obtained in the written examination before the viva-voce and, accordingly, the judgment in the case of **Pranav Verma**, supra, should not be taken to be a judgment on the issue.

4. We have considered the submissions of learned counsel for the applicant and also perused the materials available on record.



5. The argument or the prayer made by the applicant is nothing but to re-visit the judgment of the Apex Court in the case of **Pranav Verma**, supra. It is not permissible for this Court. It is despite the fact that paragraph 28 quoted above clearly lays down the issue involved herein as to whether a direction can be given to disclose the marks obtained in the written examination before the viva-voce. According to the judgment of the Apex Court, it may have serious ill-consequences and, accordingly, we had set aside the interim order of the learned Single Judge only to the extent of disclosure of the marks obtained in the written examination before viva-voce.

6. We do not find any ground for modification of the judgment so as to keep the issue open for a decision of the learned Single Judge, that is as to whether a direction can be given for disclosure of the marks obtained in the written examination prior to viva-voce or not. The issue cannot be kept open in the light of the judgment of the Apex Court referred to supra.

The application for modification of the order dated 18.03.2022 passed in W.A.No.2292 of 2021 is dismissed.

-sd/-
18/04/2022

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Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE SECRETARY,
THE TAMILNADU PUBLIC SERVICE COMMISSION,
FRAZER BRIDGE ROAD, CHENNAI - 600 003.

2 THE DIRECTOR,
TAMIL NADU MOTOR VEHICLE MAINTENANCE
DEPARTMENT, TRANSPORT COMMISSIONER,
VELACHERY, CHENNAI-42.

3 THE TRANSPORT COMMISSIONER,
CHEPAUK, CHENNAI-5.

Order
in
CMP.No.5908 of 2022
IN WA.No.2292 of 2021
Date :18/04/2022

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TP(20/04/2022)