



W.P.(MD)No.4358 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.12.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.4358 of 2020

and

W.M.P.(MD)No.3665 of 2020

R.Santhosh Kumar

Vs.

... Petitioner

1. The Secretary,
Tamilnadu Public Service Commission,
Frazer Bridge Road,
VOC Nagar, Park Town,
Chennai – 600 003.

2. The Under Secretary,
Tamilnadu Public Service Commission,
Frazer Bridge Road,
VOC Nagar, Park Town,
Chennai – 600 003.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the 2nd respondent herein in his proceedings vide memorandum No.2400/OTD-D2/2018, dated 03.02.2020



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and quash the same and consequently direct the respondents herein to consider the petitioner candidature for the direct recruitment – Combined Civil Services Examination (Group II Services) (Interview Post) 2018 under an Ex-Servicemen Category, within a time frame fixed by this Court.

For Petitioner : Mr. B.Brijesh Kishore
For R1 & R2 : Mr.V.Panneer Selvam
Standing Counsel

ORDER

This writ petition has been filed challenging the impugned order passed by the 2nd respondent, dated 03.02.2020 and to quash the same and consequently direct the respondents to consider the petitioner candidature for the direct recruitment – Combined Civil Services Examination (Group II Services) (Interview Post) 2018 under an Ex-Servicemen Category.

2. The case of the petitioner is that he joined in Indian Army in the year 1999 and served 24 years and he has to be relieved from service on 31.08.2019. While so, the first respondent has issued a Notification for recruitment (direct) combined civil service examination (Group II services



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interview post) 2018, dated 10.08.2018. The petitioner has applied for the examination through online on 08.09.2018 under the category of Ex-servicemen. In the Notification, it has been mentioned that if anybody applied for the aforesaid post, who are serving in Army, should discharge from service within one year from the date of Notification. On *bona fide* impression that he would be discharged from Army force on or before 31.08.2019, he has applied for the said post. The first respondent has accepted his application and the petitioner has also obtained No Objection Certificate from the Head of the Department on 07.01.2019. Thereafter, he appeared for the preliminary examination on 11.11.2018 and also appeared for the written examination on 23.02.2019 and he was declared as pass. On 25.10.2019, the first respondent has issued a notice, directing the petitioner to appear in person before him with relevant documents for oral test to be held on 09.11.2019. The petitioner has appeared for the oral test. But, he was not able to produce the discharge summary from Armed Force. Since the petitioner was not discharged from the military service, his candidature was rejected. Challenging the same, the present writ petition has been filed.



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3. The learned counsel appearing for the petitioner would submit that though the petitioner has produced the No Objection Certificate before the first respondent, the officials, who conducted the oral test, refused to accept the same. Due to lack of man power, discharge summary was not issued in time and the same was issued after lapse of one year. He would further submit that before passing the impugned order the petitioner has produced all the documents as per the norms and hence, the impugned order is liable to be set aside.

4. Per contra, the learned Standing counsel appearing for the respondents would submit that as per Section 63(2) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, persons serving in the Armed Forces shall be eligible to apply for posts under the Government if they are due to complete the specified term of their engagement in the Armed Forces within one year from the last date prescribed by the appropriate authority for receipt of the application in respect of a particular recruitment. All such candidates while making their applications shall



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submit a self undertaking and a form of certificate from their Commanding Officer in the format given in Schedule – XII. He would further submit that the selection process for recruitment (direct) combined civil service examination (Group II services interview post) 2018, started on 10.08.2018 and the petitioner has to complete the specified term of his engagement in the Armed Forces within one year from the last date for receipt of the application ie., on 08.09.2019. However, the petitioner has not furnished the discharge summary in time, as per Section 63(2) of the said Act. Hence, the candidature of the petitioner was rejected, which cannot be interfered with and he prayed for dismissal of this writ petition.

5. Heard the learned counsel for the petitioner and the learned Standing counsel appearing for the respondents.

6. The facts in the present case are not in dispute. Admittedly, the petitioner is an Ex-serviceman and he has participated in the selection process of Civil Service Examination and passed in the examination. Though the petitioner has furnished the No Objection Certificate in the oral



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test, he was not able to produce the discharge summary before 08.09.2019 and he has produced the discharge summary after a period of one year and the production of discharge summary is contrary to Section 63(2) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, which reads as follows:

“Persons serving in the Armed Forces shall be eligible to apply for posts under the Government if they are due to complete the specified term of their engagement in the Armed Forces within one year from the last date prescribed by the appropriate authority for receipt of the application in respect of a particular recruitment. All such candidates while making their applications shall submit a self undertaking and a form of certificate from their Commanding Officer in the format given in Schedule – XII.”

7. In the present case, since the petitioner has not produced the discharge summary within a period of one year as mandatory under Section 63(2) of the said Act, the candidature of the petitioner was not considered by the second respondent and passed the impugned order. Hence, this Court cannot interfere with the same and this Writ Petition is dismissed. However,



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liberty is granted to the petitioner to participate in the next selection process. No costs. Consequently, the connected Miscellaneous Petition is closed.

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NCS:Yes/No

Index : Yes / No

Speaking Order : Yes / No

akv

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M.DHANDAPANI,J.

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