



W.P(MD)No.6335 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.09.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.6335 of 2022

and

W.M.P.(MD)Nos.4950 to 4952 of 2022

A.Arunesh

... Petitioner

Vs.

The Secretary,
Tamil Nadu Public Service Commission,
Esplanade, George Town, Chennai-600 003.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records in relation to the Notification No.3/2021 vide Advertisement No. 578 for the post of Assistant Director of Horticulture dated 05.02.2021 and Notification No. 4/2021 vide Advertisement No.579 for Agricultural Officer (Extension) dated 05.02.2021 and quash the same as illegal to the extent of General Studies examination conducted on 18.04.2021-Afternoon and consequently direct the Respondent to conduct separate General Studies Exam for the post of Assistant Director of Horticulture and separate General Studies Exam for Agricultural Officer (Extension).

For Petitioner : Mr.C.Masilamani

For Respondent : Mr.J.Anand Kumar



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ORDER

Heard the learned counsel on either side.

2. The writ petitioner has B.Sc., (Agriculture) degree and M.Sc., (Horticulture) degree. The respondent issued Notification No.3/2021 dated 05.02.2021 calling for applications from the eligible candidates for direct recruitment to the post of Assistant Director of Horticulture and Horticultural Officer included in the Tamil Nadu Horticultural Service. On the same day, another one Notification No.4/2021 was issued calling for applications for direct recruitment to the post of Agricultural Officer (Extension) included in the Tamil Nadu Agricultural Extension Service. The petitioner applied in response to both the notifications. He was also issued with hall tickets. As per Notification No.3/2021, dated 05.02.2021, the dates of written examination for the two posts were as follows:-

Date of Notification	05.02.2021
Last date for submission of online application	04.03.2021
Last date for payment of fee through Bank SBI / HDFC Bank	06.03.2021

Dates of Written Examination



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Horticultural Officer	Paper-I: Subject Paper Horticulture (Degree standard)	18.04.2021 10.00 A.M to 01.00 P.M.
	Paper-II: General Studies (Degree standard)	18.04.2021 03.00 P.M to 05.00 P.M.
Assistant Director of Horticulture	Paper-II: General Studies (Degree Standard)	18.04.2021 03.00 P.M to 05.00 P.M
	Paper-I : Subject Paper Horticulture (P.G.Degree standard)	19.04.2021 10.00 A.M to 01.00 P.M.

As per Notification No.4/2021, dated 05.02.2021, the date of written examination for the post of Agricultural Officer Extension was as follows:-

Date of Notification	05.02.2021
Last date for submission of online application	04.03.2021
Last date for payment of fee through Bank SBI / HDFC Bank--	06.03.2021

Dates of Written Examination

Agricultural Officer (Extension)	Paper-I: Subject Paper Agriculture (Degree standard)	18.04.2021 10.00 A.M to 01.00 P.M.
	Paper-II: General Studies (Degree standard)	18.04.2021 03.00 P.M to 05.00 P.M.



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3. The writ petitioner also applied in response to both the notifications and he was also issued with hall tickets. The candidate had a doubt because there was a substantial overlapping of the examination dates. The writ petitioner wrote the following E.Mail on 10.04.2021 to TNPSC.

Respected Sir/Madam:

I have completed B.Sc., (Agriculture) and M.Sc.,(Horticulture) in Floriculture and Landscape gardening in Annamalai University, Chidambaram. I have the prescribed qualification to write both Agriculture (Extension) Officer (to be held on 18.04.2021) and Assistant Director of Horticulture examination (to be held on 19.04.2021). The hall ticket comes yesterday, but it mentioned that the two examination had different centres (for AO and ADH, gk paper only) for general studies paper-II to be held at same date (18.04.2021) and at the same time (3.00 to 5.00 p.m). It is impossible to write both exams at the same time at different papers for us. So, please take immediate action (by merging the General Studies Paper-II examination at same centre for Agricultural Officer and Assistant Director of Horticulture) to solve this issue as soon as possible.

There response from TNPSC was in the following terms:-

Dear Candidate,

AO(Extension) is scheduled to be held on 18.04.2021 FN & AN and ADH is on 19.04.2021 FN, Exam Centre mentioned in the Hall Ticket is based on you online application only. GK paper is common for both AO (Extension) and for ADH. Therefore, you can write GK paper on the same centre on 18.04.2021 FN & AN. It will be considered for ADH also. All the best.

This mail was shared with Ms.C.Lakshmi Narayana Priya. Since the stand of TNPSC was fairly clear and unambiguous, the writ petitioner wrote the written



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examinations for the post of Agricultural Officer (Extension) as per the hall ticket bearing Registration No.1901002209. He also wrote the subject paper for the post of Assistant Director of Horticulture on 19.04.2021 as per the hall ticket bearing Registration No.1901001074. The writ petitioner scored the following marks:-

Register Number	Total marks obtained by the candidate both in Paper-I (Agriculture) and Paper-II(General studies)
1901002209	361.00

Register Number	Marks Paper-I(Horticulture) -Paper-II(General Studies)	Total Marks
1901001074	210.00 ---	210.00

The petitioner had a doubt as to whether the general studies paper written by him on 18.04.2021 would be considered while ascertaining the total marks for the post of Assistant Director of Horticulture. Ms.Lakshmi Narayana Priya therefore filed W.P.(MD)No.22506 of 2021. Thiru.Arunesh filed W.P.(MD)No. 22372 of 2021. The writ petitions were disposed of in the following terms:-

“2.Today (21.12.2021), when the matter is taken up for hearing, Mr.J.Anandkumar, learned Standing Counsel appearing for Tamil Nadu Public Service Commission submits that the selection process is not yet completed and



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pending the selection process, the respondent/Tamil Nadu Public Service Commission is not in practice of furnishing the details, with regard to the individual marks taken by the candidates and these data would be available to the petitioners, after the selection process is over. The learned Standing Counsel has also relied on the Clause 13(e) of the Notification No.3/2021, vide advertisement No.578, which reads as follows:-

13(e) After notification, during the process of recruitment till publication of final results, no information under Right to Information Act would be furnished.

3.In view of the specific clause under the Notification No.3/2021, vide advertisement No.578 and the submissions made by the learned Standing Counsel appearing for the respondents that selection is not yet completed, these writ petitions are disposed of, by reserving the petitioner's right to renew these applications, after the selection process is over. No costs.”

Thereafter, the impugned selection list was published and it was made clear that the petitioner could not make it under either of the two categories. Since the writ petitioner did not score the requisite number of marks for the post of Agricultural Officer (Extension), he was not called for interview. As regards the post of Assistant Director of Horticulture, he again could not make it because according to the respondents, he did not write the general studies paper for this test under the hall ticket sent for the said post. Challenging the same, this writ petition has been filed.

4. The writ petition was listed for admission on 29.06.2022. It was ordered that any appointment made pursuant to the impugned selection list will be subject to the final decision to be taken in the writ petition.



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5. The learned counsel appearing for the petitioner took me through the averments set out in the affidavit filed in support of the writ petition.

6. The respondent had filed a detailed counter affidavit. The learned standing counsel took me through the averments set out therein. The stand of the respondents is that selection procedure had been set out in Paragraph No.9 of the notification which reads as follows:-

9.Selection Procedure:-

Selection will be made in two successive stages ie., (I) Written Examination and (II) Oral Test in the shape of an interview. The final selection will be made on the basis of the total marks obtained by the applicants at the written examination and oral test taken together subject to the rule of reservation of appointments. Applicants' appearance in the written examination and oral test is compulsory. The applicant who has not appeared for any of the subjects in the written examination will not be considered for selection even if he/she secures the minimum qualifying marks for selection. (For further details refer to para 18(B) of the 'Instructions to Applicants')

Note:-

Firstly the selection will be made for 'two' and 'eight' carried forward vacancies for the posts of Assistant Director of Horticulture and Horticultural Officer respectively. (Section 27 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016). Secondly, the selection will be made for '26' and '161' regular vacancies for the posts of Assistant Director of Horticulture and Horticulture and Horticultural Officer respectively following the rule of reservation.



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7. The learned standing counsel would contend that even though it may appear to be harsh, the fact is that the petitioner ought to have made a choice. The respondent has issued two different notifications for three different posts. While for two posts, the general study subject was to be common, for the post of Agricultural Officer (Extension) covered by the other notification, the petitioner was to write it separately. In other words, the respondent commission did not propose to treat the examination of General Studies (Degree Standard) as common for both the notifications. It is true that a clarificatory E.mail had been received by the writ petitioner. But then, such a mail was sent without authorisation. In any event, the writ petitioner cannot take advantage of the same. The writ petitioner having taken part in the selection process by agreeing to the terms and conditions to the notification cannot now question the same. The learned counsel also relied on few decisions of this Court and they have also been referred to in the counter affidavit. He pressed for dismissal of this writ petition.

8. I carefully considered the rival contentions and went through the materials on record.

9. The writ petitioner had applied in response to the recruitment notifications issued by TNPSC. Two notifications had been issued for three



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posts. While Notification No.3/2021 pertained to the post of Horticultural Officer and Assistant Director of Horticulture, Notification No.4 pertained to the post of Agricultural Officer(Extension). It is not in dispute that for each post, a candidate has to write two papers namely the subject paper and the general studies paper. The general studies paper (degree standard) was common to all the three posts. The written examinations were held on 18.04.2021 and 19.04.2021. The candidates had a doubt if they had to make a choice. One of the candidates namely the writ petitioner/Thiru.Arunesh sought clarification from TNPSC. TNPSC responded from their official E.Mail ID that since the general studies paper is going to be common to all the three posts, the question of choice will not arise at all and that the candidate can take part in the written examination meant for both the posts. It is true that this clarificatory E.Mail was received only by the writ petitioner. But the clarification was rather general in nature and not candidate specific. The respondent having clarified the position cannot now go back on the same. If the respondent had not issued the clarificatory E.Mail as mentioned above, the writ petitioner probably would have written the subject paper for Horticultural Officer. I cannot set aside the provisional selection list. However, the consequential prayer will have to be necessarily granted.



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10. The respondent will treat the general studies mark obtained by the writ petitioner under Registration No.1901002209 for the purpose of selection for the post of Assistant Director of Horticulture. The respondent will hold a special oral test for the writ petitioner and issue appropriate orders. The exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

11. The Writ Petition is allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

29.09.2022

Index : Yes / No
Internet : Yes/ No
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