



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 21.04.2022

DELIVERED ON : 24.06.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD).Nos.11549 and 11550 of 2014

and

M.P(MD).Nos.2, 3 of 2014, 1 of 2015,
2,3 of 2014 and 1 of 2015

W.P. (MD).No.11549 of 2014

R.Elangovan

... Petitioner

Vs.

1.The Secretary,
Tamil Nadu Public Service Commission,
Chennai-3.

2.The Controller of Examinations,
Tamil Nadu Public Service Commission,
Chennai-3.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the second respondent in pursuant to the impugned result for Oral Test for Recruitment to the posts included in the Combined Engineering Service Examination (2009-10 to 2012-13) published by him in his proceedings NIL dated 07.07.2014 and quash the same as illegal, arbitrary and unjustifiable and consequently direct the respondents to publish the result afresh including petitioner's Register Number 01501078 for Oral Test for Recruitment to the posts included in the Combined Service Examination (2009-10 to 2012-13) thereby considering the petitioner's case for appointment to the post of Assistant Engineer within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.J.Anandkumar
Standing Counsel

W.P. (MD).No.11550 of 2014

M.Senthilkumar

... Petitioner

Vs.

1.The Secretary,
Tamil Nadu Public Service Commission,
Chennai-3.



2.The Controller of Examinations,
Tamil Nadu Public Service Commission,
Chennai-3.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the second respondent in pursuant to the impugned result for Oral Test for Recruitment to the posts included in the Combined Engineering Service Examination (2009-10 to 2012-13) published by him in his proceedings NIL dated 07.07.2014 and quash the same as illegal, arbitrary and unjustifiable and consequently direct the respondents to publish the result afresh including petitioner's Register Number 13801344 for Oral Test for Recruitment to the posts included in the Combined Service Examination (2009-10 to 2012-13) thereby considering the petitioner's case for appointment to the post of Assistant Engineer within the time limit that may be stipulated by this Court.

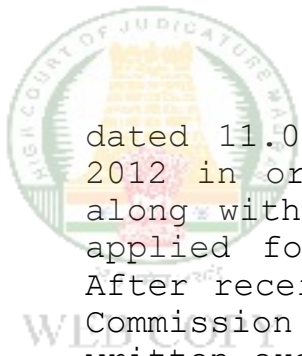
For Petitioner : Mr.G.Thalaimutharasu
For Respondents : Mr.J.Anandkumar
Standing Counsel

COMMON ORDER

These writ petitions have been filed for a writ of Certiorarified Mandamus to quash the impugned result for Oral Test for Recruitment to the post of Combined Engineering Service Examination and consequently direct the respondents to publish the result afresh including petitioner's Register Number for Oral Test for Recruitment to the posts included in the Combined Service Examination (2009-10 to 2012-13) thereby considering the petitioner's case for appointment to the post of Assistant Engineer.

2. The brief facts of the case is that the petitioner in W.P. (MD) No. 11549 of 2014 has completed SSLC and passed Diploma in Civil Engineering and thereafter, the petitioner completed B.E. Civil Engineering in the year 2000 and 2007 respectively. The petitioner in W.P.(MD)No.11550 of 2014 has completed SSLC and passed Diploma in Civil Engineering and thereafter, the petitioner completed B.E. Civil Engineering in the year 1995 and 1998 respectively. The petitioners registered themselves with the Employment Exchange. The Tamil Nadu Public Service Commission has issued an advertisement in the Dailies as well as in their official website vide Notification No.53 of 2012, dated 24.12.2012 inviting applications through online mode upto 18.01.2013 for Direct Recruitment to various posts included in the Combined Engineering Services Examination (2009-2010 to 2012-2013).

3. In the meanwhile, the Tamil Nadu Public Service Commission has issued another advertisement vide Notification No.53B/2013,
<https://hcservices.ecourts.gov.in/hcservices/>



dated 11.01.2013 supplement to the Notification Nos.53 and 53A of 2012 in order to add syllabus such as Paper-II, General Knowledge along with Paper-I as per original advertisement. The petitioners applied for the post through online along with other candidates. After receipt of online applications, the Tamil Nadu Public Service Commission issued call letters to 32,969 candidates to appear for written examination held on 02.03.2013 and after written examination the results were published on 04.10.2013. Out of 32,969 candidates, only 652 were declared as selected in the written examination and the petitioners were one among them. The selectees were asked to upload their certificates in support of their claims through online on or before 18.10.2013 and the petitioners uploaded all certificates as enclosed in the original application through online.

4. The Tamil Nadu Public Service Commission has published another result on 30.01.2014, directed the candidates whose Register Numbers found in the list, to upload the certificates in support of their claims on or before 20.02.2014. Since the petitioners' register number found in the list too, the petitioners once again uploaded the certificates through online and waited for oral test. The Tamil Nadu Public Service Commission has published the impugned selection list for oral test on 07.07.2014, which contained 454 register numbers directing to attend oral test scheduled to be held from 22.07.2014 to 25.07.2014 and 28.07.2014. But the petitioners' register number was not found in the impugned selection list and no reason has been assigned for the same.

5. The contention of the petitioner is that the petitioners' name was very much available in the first two list but the petitioners' name was deleted in the third list. The contention of the petitioner is that on verification of the impugned selection list, the petitioner found that there are several discrepancies in the earlier list as well as in the impugned list. One such discrepancy is that five candidates whose register numbers not at all found in the second list, are find place in the impugned list. There are six other candidates, whose register numbers not at all found in the earlier lists are also find place in the impugned list. Therefore, the petitioner made complaint, dated 12.07.2014 to the respondents through registered post to rectify the mistakes and thereby allow the petitioners to attend the oral test.

6. The petitioners submitted that the second respondent has stated in the impugned selection list that the amended list of Register Numbers of candidates who were provisionally admitted to the Certificate Verification to find out their eligibility for admission to the oral test for appointment by direct recruitment to the posts included in the Combined Engineering Services Examination (2009-2010 to 2012-2013) based on the results of the written examination conducted by the Commission on 02.03.2013 and was hosted in the Commissioner's website on 30.01.2014. The candidates whose



register numbers were published in the said list were asked to send by post as well as to upload their certificates in support of their claim made in their online applications, for verification. Subsequently after Certificate Verification it is found that there are changes in the eligibility status of 30 candidates due to which provisional selection of 30 candidates stands cancelled. Consequent to the cancellation of provisional selection as aforesaid, the list of candidates who are now eligible for admission to the oral test published in the website.

7. The contention of the petitioners is that the respondents have not furnished reason or any details of the cancellation of provisional selection of 30 candidates. Even assuming but without admitting that if provisional selection of 30 candidates are cancelled then the remaining 170 ought to have been included in the impugned result for oral test. But on verification, only 454 were called for oral test out of 652. Therefore, the ratio 1:3 is not at all followed while publishing the impugned result. The earlier list was drawn only at the ratio of 1:3 for Certificate Verification. Aggrieved over the same, these present writ petitions have been filed.

8. The respondents have filed two counters stating that the selection procedure comprises of a written examination followed by an oral test (interview). It is submitted that the number of candidates to be admitted to oral test will be in the ratio of 1:2 or 1:3 in some case, depending on the number of vacancies in each reservation group. The candidates are required to apply only through online mode. Since there may be cases of false claims or defective claims etc. entitling subsequent rejection of the application of certain candidates, the Commission shortlisted the candidates for Certificate Verification in the ratio of 1:3 as against the exact ratio of 1:2 fixed for oral test. In such circumstances, since the writ petitioners' rank on the basis of the written examination fell within the ratio of 1:3 in the category to which the petitioners belong they were shortlisted for Certificate Verification. However, after the verification, when the candidates were further short-listed for oral test in the ratio of 1:2 as notified in the notification, the writ petitioners did not come within the zone of consideration i.e., within the zone of 1:2 ratio.

9. The allegation of the petitioners is that some of the candidates who did not found in the list of candidates shortlisted for Certificate Verification are now found in the list for oral test. Therefore, the process of Tamil Nadu Public Service Commission is wrong by stating that they are candidates in different subjects and different reserved categories by virtue of Rule or Reservation and this allegation also cannot hold good. The candidates who have secured higher marks than the petitioners have satisfied the Commission by submitting all the relevant documents, the petitioners



have not reached the merit for being considered for oral test.

10. In the second counter, the respondents have stated that the selection involves two stages - written examination and oral test. Based on the results of the written examination conducted by the Commission and with reference to the claim made by the candidates in their online application, rule of reservation of appointments and with reference to vacancies, a list containing 652 register numbers of candidates at the ratio of 1:3, those who have been provisionally considered for Certificate Verification was published on 04.10.2013. Thereafter, based on the representations, given by some of the candidates about the list published on 04.10.2013 stating that though they performed well in the written examination, they have not been selected but the candidates those who obtained lesser marks than themselves have been shortlisted for certificate verification, re-evaluation has been made to check the evaluation process already done.

11. The scanning of OMR answer sheets of the candidates was found to be in order. However, it was found that out of the four versions answer keys used for the evaluation process, two versions got interchanged. Because of this reason, the re-evaluation has been made. After obtaining opinion from the export committee constituted for this purpose, an amended provisional list of 652 candidates in the ratio of 1:3 for certificate verification was published on 30.01.2014.

12. During re-evaluation, since the petitioners have reached the zone of consideration, in the selection of candidates at 1:3 ratio for certificate verification prior to oral test, the register numbers of the petitioners have been included in the list. However, certain candidates whose register numbers were published in the previous list but did not appear in the amended list have approached this Court by filing W.P.Nos.4996 of 2014 etc., batch, vide order dated 30.04.2014 upheld the action of the Commission in publishing the amended list.

13. The respondents have also submitted that these 652 candidates including the petitioners were asked to send by post as well as upload their certificates in support of their claim made in their online application, for verification. Subsequently, after certificate verification, it was found that there are changes in the eligibility status of 30 candidates due to which provisional admission to Certificate Verification of 30 candidates were cancelled. After deleting the register numbers of these 30 candidates from the list of 652 candidates, the candidates were shortlisted for provisional admission for oral test in the ratio 1:2, based on the rules of reservation, number of vacancies and based on the procedure of selection adopted for the posts for which selection is made on the basis of written examination and oral test



as explained 21 (b) of Commission's instructions to candidates available in the Commission's website (Instruction to candidates 21 (b)). As there was a short fall for 11 candidates in order to adhere 1:2/1:3 ratio as stipulated in the Commission instructions to Candidates due to rejection of 30 Candidates, the above said 11 candidates who are in higher rank order admitted to oral test. The list of marks obtained by these 11 candidates and cut off marks for their respective communal category and respective posts for which they are eligible to be considered is enclosed along with the counter.

14. The admission of these 11 candidates to oral test is purely provisional, subject to verification/acceptance of their documents, educational qualifications, etc. Only after verification, their eligibility will become final for admission to oral test. However, these 11 candidates have not been selected for appointment to the posts included in CESE after considering their marks in written examination and oral test, since they did not reach the zone of consideration. During the drawal of list of 454 candidates provisionally admitted to oral test, since the petitioners have obtained marks lesser than the cut off marks for admission to oral test, they have not reached the zone of selection to the provisional admission to oral test. Hence, their register numbers have not been included in the above mentioned list. Therefore, the respondents prayed for dismissal of the present writ petition.

15. Heard Mr.G.Thalaimutharasu, the learned counsel for the petitioner and Mr.J.Anandkumar, learned standing counsel for the respondents and perused the materials on record.

16. It is seen from the notification originally the ratio fixed for selection list is 1:3. During the preliminary selection list, the 1:3 ratio was followed and the petitioners' name was found in the first list. Subsequently, based on the number of vacancy, the respondents have adopted 1:2 ratio based on the vacancy in each of the reservation group by considering the marks obtained by the candidates. Based on the number of vacancy, the cut off marks was also fixed. While applying this principle, the petitioners' name did not come within the zone of consideration. The marks obtained by the petitioners are lower than the cut off marks. Moreover, the selection was put to challenge before this Court. While processing and scrutinising the eligibility criteria and other factors including the communal rotation, the petitioners' name could not be included in the third list even though the petitioners were successfully entered in the first and second list based on the cut off marks. Since the petitioners have not reached zone of consideration since the petitioners have obtained lesser mark, the petitioner's name was not considered.



17. The allegation of the petitioners is that the respondents ought to have followed 1:3 ratio as stated in the notification, but the respondents have followed 1:2 ratio which against the notification. But the respondents submitted that the recruitment is for the Combined Engineering Service and while considering for each and every post a separate ratio was followed based on the available vacancy. Hence, the respondents have followed the ratio of 1:2 in some cases and 1:3 in some cases based on the number of vacancy. During scrutiny, the petitioner has not come within zone of consideration. Therefore, the petitioner's claim cannot be considered.

18. Therefore, this Court is of the opinion that the petitioners have not secured the marks to come within zone of consideration. As far as the ratio of 1:2 and 1:3 is concerned, the respondents are stating that the recruitment is for the combined engineering service and based on the vacancy available for each division of engineering service the ratio of 1:2 or 1:3 was fixed. Fixing of ratio is within the domain of the recruiting agency, which in turn, based on the available vacancy. Hence, the petitioner's claim cannot be considered and these writ petitions are devoid of merits and liable to be rejected. These writ petitions stand dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/07/2022

Sub Assistant Registrar(CS)

sn

To

1.The Secretary,

Tamil Nadu Public Service Commission, Chennai-3.

2.The Controller of Examinations,

Tamil Nadu Public Service Commission, Chennai-3.

+1 CC to M/s.J. ANADKUMAR, Advocate (SR-27926[F] dated 24/06/2022)

+2 CC to M/s.G. THALAIMUTHARASU, Advocate (SR-28584[F] dated 28/06/2022)

W.P(MD) .Nos.11549 and 11550 of 2014
24.06.2022

se (CO)

TR(04.07.2022) 7P 6C