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W.P.(MD)No.13491 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 26.04.2022
DELIVERED ON: 14.06.2022
CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.13491 of 2014

and

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

S.Suresh Rathina Kumar

... Petitioner

Vs

1. Tamil Nadu Public Service Commission,
represented by its Secretary,
Frazer Bridge Road,
Esplanade, George Town,
Chennai.
2. The Deputy Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
Esplanade, George Town,
Chennai.
3. S.Jeyanthi
4. L.Gowsalyadevi
5. T.Sivagami
6. M.Chandradevi
7. P.Krishnammal
8. N.Malathy
9. S.Vijaya Geetha
10. K.Kavipriya

... Respondents

**(R3 to R10 are impleaded vide
Court order dated 05.07.2019 on
W.M.P. (MD)No.13342 of 2018 in
W.P. (MD)No.13491 of 2014)**

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Memorandum No.6207/OTD-B2/2010 dated 11.07.2014 on the file of the second respondent and quash the same as illegal and consequently direct the respondents to call the petitioner for the counselling for the post included in Combined Subordinate Service Examination-I, 2009 -2011 and appoint the petitioner based on merits within the time period stipulated by this Court.



For Petitioner : Mr.T.ASWIN RAJASIMMAN
for Mr.T.Lajapathi Roy

For Respondents : Mr.V.PANNEER SELVAM for R1 & R2
Standing Counsel
No appearance for R3 to R10

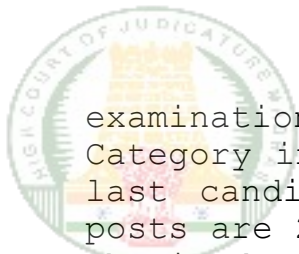
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O R D E R

This Writ Petition is filed to quash the impugned order in Memorandum No.6207/OTD-B2/2010 dated 11.07.2014 and consequently direct the respondents to call the petitioner for the Counselling for the post included in Combined Subordinate Service Examination-I, 2009-2011 and appoint the petitioner based on merits within the time stipulated by this Court.

2. The brief facts of the case are that the petitioner belongs to Backward Class Category possessing age-wise seniority has obtained 231 marks in the Combined Subordinate Service Examination held on 31.07.2011, but the petitioner was not called for the counselling and whereas several other persons who have got 231 marks belonging to General Turn have been called for and selected provisionally at the counselling held for the non-interview posts. The petitioner has completed Under Graduation in the year 2008 and applied for the posts included in Combined Subordinate Service Examination-I. In the examination the petitioner got 231 marks and was placed as 6027th Rank in the written examination. Since the petitioner's register number was not in the provisional list, the petitioner had approached the respondent on 18.12.2012 requesting to rectify the selection process. But the respondent did not take necessary steps. A candidate who was born on 10.04.1976 possessing 231 marks has been provisionally selected, whereas the petitioner was not selected. On 24.12.2012, the petitioner submitted a detailed representation to the respondent mentioning all the said facts and requested to call the petitioner for the counselling. But the respondent did not consider the petitioner's representation dated 24.12.2012 and no action was taken. Therefore, the petitioner approached this Court in W.P.(MD)No.969 of 2013 to issue direction to the respondent to call the petitioner for the counselling and on 11.06.2014, this Court has directed the respondents to consider the representation and pass orders. In these circumstances, the impugned order came to be passed, wherein the petitioner's claim was rejected stating that the petitioner has scored 231 marks and hence he was not summoned for next phase of the counselling for the non-interview post. When the writ petition was taken up for admission, this Court has granted an Interim Order to keep one post vacant.

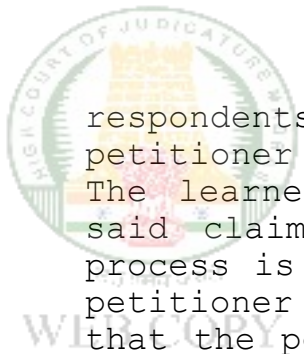
3. The respondents have filed a counter affidavit stating that the petitioner belong to BC Community had appeared in the written examination conducted on 30.07.2011 and scored 231 marks in the



examination. The mark obtained by the last candidate under BC (G) Category in respect of oral test posts and the mark obtained by the last candidate in the same BC (G) category in respect of NON-OT posts are 235.50 and 232.50 respectively, whereas the petitioner has obtained only 231 marks. Therefore, the petitioner was not considered for Oral Test as well as for counselling conducted for selection to NON-OT posts. The petitioner was informed, vide letter, dated 11.07.2014 that BC (W) candidates summoned for the first phase of counselling to common degree posts and to the Assistant in Finance Department opted the resultant vacancies in the post of Assistant in Medical and Rural Health Services and Assistant in Police Department respectively, as some candidates who were summoned for counselling under BC (G) category were absent for counselling and some candidates expressed their willingness to opt for the available posts during counselling and some candidates opted the posts earmarked for special reservation under BC category by way of swapping. The contention of the respondent is that even some of the candidates who have obtained the same marks as that of the petitioner i.e., 231 marks, the candidates namely, Kuppathal, Jayanthi, Sivagami, Chandradevi, Krishnammal, Gowsalyadevi, Malathi, Vijaya Geetha were not selected to any of the NON-OT posts. Only seven candidates were selected. The entire selection list of the NON-OT posts and cut off fixed for the six phases of the counselling of all the categories of candidates are produced which shows that no candidates with less marks in respect of petitioners category were selected and allowed for counselling for opting the post. Therefore, the respondents prayed to dismiss the writ petition.

4. Heard Mr.R.Aswin Rajasimman, learned Counsel appearing for the petitioner, Mr.V.Panneer Selvam, learned Counsel appearing for the first and second respondents and there is no appearance for the respondent Nos.3 to 10.

5. The learned Counsel for the petitioner submitted that this Combined Subordinate Service recruitment process was challenged in several writ petitions and the TNPSC has filed a counter stating that they have committed some mistake in the said recruitment process and recording the said submission, this Court has passed an order dated 27.06.2014 passed in W.P. No. 14410 of 2014 batch directing the respondents to take the petitioner into service based on their marks. The said order was challenged in W.A.No.603 of 2017 batch, wherein this Court, vide order, dated 27.03.2018 has referred the present writ petition, wherein it has been stated that the present writ petitioner, namely, Suresh Rathina Kumar, there is an interim order which is protective to a person and they were summoned for the next phase of counselling. The claim of the petitioner is that the TNPSC has filed a counter and has admitted the fact that they have committed a mistake in the said recruitment process. Based on the submission certain relief were conferred on the petitioner that was referred supra and based on the same the



respondents had conducted the recruitment process properly, the petitioner would be eligible and appointed in any of the Department. The learned Counsel for the respondent vehemently opposed to the said claim. The respondents also submitted that the recruitment process is for the year 2011 and 10 years has gone. Therefore, the petitioner is not eligible to any post. It is seen from the records that the petitioner is already 50 years old. In counter affidavit filed in W.P.(MD)No.14369 of 2014 it has been stated that 20 vacancies available.

6. Therefore, this Court is of the considered opinion that since the TNPSC has committed a mistake and they themselves have agreed in the counter filed in W.P. No. 14410 of 2014 batch and based on the mistake, this Court has granted relief to some of the writ petitioners. Already this Court has granted an interim order to keep one post vacant. Following the order passed in W.P. No. 14410 of 2014 batch, this Court is directing the respondents to accommodate the petitioner in any of the Department that is stated in the notification issued, preferably in the Rural Welfare Department. The said exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

7. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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

1. The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
Esplanade, George Town, Chennai.



2. The Deputy Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
Esplanade, George Town,
Chennai.

+1 CC to M/s.T. LAJAPATHI ROY, Advocate (SR-25699[F] dated
15/06/2022)

+1 CC to M/s.V. PANNEER SELVAM, Advocate (SR-25747[F] dated
15/06/2022)

Pre-delivery Order made in
W.P. (MD) No.13491 of 2014
Date:14.06.2022

SA(27.06.2022) 5P 5C