



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.10.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.24004 of 2022

and

W.M.P(MD)Nos.18087 & 18089 of 2022

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A.R.Gokila Vani

... Petitioner

Vs

1.The Secretary,
Tamil Nadu Public Service Commission,
T.N.P.S.C.Road, V.O.C Nagar,
Park Town, Chennai - 600 003.

2.The Controller of Examinations,
Tamil Nadu Public Service Commission,
T.N.P.S.C.Road, V.O.C Nagar,
Park Town,
Chennai - 600 003.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned on line rejection order passed by the second respondent in his website dated 12.10.2022 in connection with the non-uploading and production of experience certificate of the petitioner and quash the same as illegal and unconstitutional and consequently direct the respondents to accept the petitioner experience certificate uploaded by the petitioner in connection with certificate verification of the petitioner Reg.No.1001001252 and consequently directing the respondents to allow the petitioner to participate in the further selection process to the post of Assistant Director of Town and Country Planning.

For Petitioner : Mr.K.Govindarajan
for Mr.S.Poornachandran
For Respondents : Mr.J.Anandkumar
Standing Counsel

ORDER

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

2.The Tamil Nadu Public Service Commission (TNPSC) issued recruitment notification on 25.02.2022 calling for applications from eligible candidates for the post of Assistant Director of Town and Country Planning governed under the Tamil Nadu General



Service. The writ petitioner applied in response there. The writ petitioner successfully cleared the written test. However, her Registration Number did not appear in the list of candidates called for oral test to be held on 01.11.2022. Aggrieved by the said omission, the present writ petition has been filed.

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3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as sought for. The respondents filed their position note and the learned standing counsel took me through its contents. The primary contention advanced by the learned standing counsel is that the writ petitioner can be considered only under UG category since the PG qualification possessed by her does not meet the eligibility criteria. If the petitioner is to be considered as candidate eligible for the aforesaid post, then apart from possessing UG qualification, she must also have experience as set out in Clause 4(B) in the recruitment notification. In this case, the petitioner omitted to claim that she is having the said experience. She uploaded the experience certificate during certificate verification. Therefore, the petitioner cannot be called for oral test. The learned counsel pressed for dismissal of the writ petition. He placed reliance on the decision of the Hon'ble First Bench rendered in W.A.No.4318 of 2019 dated 11.03.2020 (P.Prabhu Vs. Tamil Nadu Public Service Commission).

4. I carefully considered the rival contentions and went through the materials on record. Clause 4(B) of the recruitment notification sets out the educational qualification. It reads as follows :

(B) EDUCATIONAL QUALIFICATION (as on 25.02.2022)
Applicants should possess the following or its equivalent qualification awarded by any University or Institution recognized by the University Grants Commission:

1. Post Graduate Degree in Town or City or Urban or Housing or Country or Rural or Infrastructure or Regional or Transport or Environmental Planning from a recognized University or Institute. (or) 2. Must be an Associate of the Institute of Architects or possess B.Arch Degree or possess Degree or Diploma recognized and equivalent to the National Diploma in Architecture with experience in Town Planning works for a period of not less than three years in a Town Planning Department of Government or in the Statutory Boards or Urban Authorities or Universities or Recognized Research Institutions or Public Sector Undertakings or Semi-Government or Statutory or Autonomous Organisations or Local Bodies (or) 3. Must possess B.F Degree (Civil or Highway) with experience in Town Planning works for a period of not less than two years in Town Planning Department of Government or in the Statutory Boards or Urban Authorities or Universities or Recognized Research Institutions or Public Sector Undertakings or Semi-
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Government or Statutory or Autonomous Organisations or Local Bodies.

(or)

4. Must have passed Sections A & B of the Associate Member of the Institution of Engineers (India) Examination in the Civil Engineering Group with experience in Town Planning work for a period of not less than two years in Town Planning Department of the Government or in the Statutory Boards or Urban Authorities or Universities or Recognized Research Institutions or Public Sector Undertakings or Semi-Government or Statutory or Autonomous Organisations or Local Bodies.

(or)

5. Must possess Bachelor of Planning or Bachelor of Technology in Planning from a recognized University or Institute with two years experience in the field of Urban or Regional Planning in the State Governments or in the Statutory Boards or Urban Authorities or Universities or Recognized Research Institutions or Public Sector Undertakings or Semi-Government or Statutory or Autonomous Organisations or Local Bodies.

Note:

- (i) The educational qualification prescribed for the post should have been obtained by passing the required qualification in the following order of studies: 10th + HSC or its equivalent + Bachelor's Degree + P.G. Degree as required under Section 25 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016. Results of the examination should have been declared on or before the date of notification. (Section 20(4)(iv) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016).
- (ii) The qualifications considered equivalent are indicated in Annexure-II to this notification.
- (iii) Applicants claiming equivalence of qualification to the prescribed qualification should upload and submit evidence for equivalence of qualification, in the form of Government Order Issued on or before the date of this notification, and produce it when called for, failing which, their application **will be summarily rejected after due process**. The Government Orders regarding equivalence of qualification issued after the date of this notification will not be accepted. (For further details regarding equivalence of qualification refer note under para.9 of the "Instructions to Applicants").

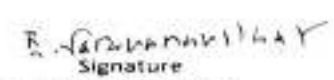
5. It is not in dispute that the writ petitioner is having PG in Infrastructure Engineering and Management. She had passed out of Thiagarajar College of Engineering, Madurai which is affiliated to Anna University in First Class with Distinction. According to TNPSC, the petitioner must possess PG in Infrastructural Planning from recognised University or Institute. Since the petitioner is having PG in Infrastructural Engineering and not Infrastructural



Planning, her PG cannot be taken as eligible qualification for the post in question.

6. Of course, it is not for this Court to hold that the PG possessed by the petitioner meets the requirement set out in Clause 4 (B) (1) of the recruitment notification. I therefore have to find out if the petitioner fulfills the qualification set out in Clause 4(B)(3). There is no dispute that the petitioner possesses B.Tech (Civil Engineering). She is also having experience in Town Planning Work for a period of not less than two years in Town Planning Department. A copy of the experience certificate is enclosed at Page No.116 of the typed set of papers. It reads as follows :

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EXPERIENCE CERTIFICATE	
1. Name, Address and E-mail ID of the Town Planning Department of Government	Directorate of Town and Country Planning Department, CMDA Office Complex, E & C Market Road, Koyambedu, Chennai - 600 107 dtcpchennai@gmail.com
2. Name of the employee and Date of Birth	Gokila Vani A.R. And 22/07/1994.
3. Qualification possessed by the Employee on the date of joining in to service	B.Tech., (Civil Engineering) M.E. (Infrastructure Engineering and Management)
4. Designation and period of experience of the employee	Designation: Surveyor cum Assistant Draughtsman Experience: 4 years, 05 months and 03 days.
5. Duty performed by the Employee	As stated by the employee i. Checked proposed map and land use schedules for the review approval of Kodaikanal Master Plan and Prepared presentation along with it. ii. Deputed to verify and update schedules with Adangal Register, Village map, FMB as per current information and check updated maps for Madurai Master Plan.
6. a) Whether the employee possesses experience as laid in para 4(B) of the notification	YES
b) Period of Experience	From: 22.09.2017 To : till date
7. Certificate by the Head of the Town Planning Department of Government	Checked updated maps for Madurai Town.
Office Seal Date: 29 JUL 2017 Place:	 Signature Name & Designation Of the Appointing Authority DIRECTOR OF TOWN AND COUNTRY PLANNING CHENNAI


 Gokila Vani A.R.



7.It is beyond dispute that the petitioner meets the eligibility criteria. The only question that arises for consideration is whether for having omitted to state that she is having the aforesaid experience in the first instance, the petitioner should be denied opportunity of participating in the oral test. I have already held that the petitioner is having educational qualification as well as the requisite experience as prescribed by TNPSC. It appears that the petitioner was under the genuine and *bona fide* impression that since she is having requisite PG, she need not make a claim under Clause 4(B)(3). The recruitment notification is also a bit confusing. It is only using the expression "Infrastructure". The petitioner is having PG in Infrastructure Engineering and Management. Of Course, she does not have a PG in Infrastructure Planning.

8.The learned counsel appearing for the petitioner would remark that there does not appear to be any course in Infrastructure Planning in India. I refrain from going into the said aspect and I am not going into the said controversy. My attention is drawn to the order dated 07.07.2021 made in W.P(MD) Nos.13825 and 5981 of 2020 (Nelaparnisha Vs. Tamil Nadu Public Service Commission). A learned Judge of this Court was confronted with a similar situation. In the said case also, the writ petitioners failed to upload the supporting certificates. Paragraph Nos.5,6,7 and 8 reads as follows:

"5. The Hon'ble Supreme Court in the case of **Charles K. Skaria & Others V. Dr.C.Mathew & Others** reported in **1980 (2) SCC 752 at paragraph 23**, had held that a method of convenience for proving possession of a qualification is merely directory. The Hon'ble Supreme Court in that case, had ratified the decision of the Selection Committee in giving credit for the diplomas of the candidates, although the authentic copies of the diplomas were not attached to the application for admission.

6. This proposition was again reiterated by the Hon'ble Supreme Court in the Appeal (Civil) No.6506 of 2004 dated 05.10.2004 arising in the case of **Dolly Chhanda Vs. The Chairman, JEE & Others**. By applying this ratio for the present case in hand, it could be said that when all other documents were uploaded by the candidate, non uploading of the required Typewriting Tamil Senior Grade Certificate in the application may not be fatal.

7. Furthermore, the commission of this mistake can be treated as a minor mistake. A learned Single Judge of

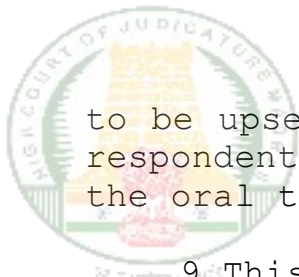


error made by a candidate and had invoked the power under Article 226 of the Constitution of India in the case of **M.Abiramadevi Vs. The Secretary, TNPSC, Chennai & another in W.P.No.4700 of 2020** and passed orders in favour of the candidate therein. The relevant portion of the order reads as follows:-

"10. In view of the above positive development, this Court is not inclined to go into the contentious position adopted by the respondent Commission. No doubt, the Commission is under legal obligation to insist on the compliance of all candidates to every requirement which was part of the notification. Nevertheless, in the case of this nature, when extremely minor error has been committed inadvertently by the candidate concerned, the same cannot be allowed to deprive the candidate of her valuable right to gain employment in Public Service. After all, the saying is "To err is human" and such inadvertent mistake committed by the candidate viz., the petitioner, cannot be visited with a punishment of being denied of a life time opportunity of gaining employment in Public Service. In this case, the petitioner, having been provisionally selected for appointment and if this Court were to accept the objections of the Commission, in the face of the positive development, it would only result in grave injustice to the petitioner, as she has rightly earned her place for provisional appointment on the basis of her performance and hard work."

8. By taking into account the ratio held by the Hon'ble Supreme Court in the cases of Charles K. Skaria (supra) and Dolly Chhanda (supra), as well as the decision of this Court in Abiramadevi's case (supra), the failure on the part of the petitioner to upload the required Typewriting Tamil Senior Grade Certificate, should not deprive her of the selection. Consequently, the impugned order of rejection requires to be interfered with and thereby facilitate the candidature of the petitioner to be included in the selection list."

The aforesaid order allowing the writ petitions can be pressed into service in the present case also. In the case on hand, the selection process is still going on. The petitioner had uploaded the experience certificate at the time of certificate verification itself. Oral test is to be held only next week. It is not as if by granting relief to the petitioner, the selection list is going



to be upset or interfered with. In this view of the matter, the respondents are directed to permit the petitioner to take part in the oral test to be held on 01.11.2022.

9. This writ petition is allowed. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar (CS-III)

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28/10/2022

Sub Assistant Registrar (CS)

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To

1. The Secretary,
Tamil Nadu Public Service Commission,
T.N.P.S.C.Road, V.O.C Nagar,
Park Town,
Chennai - 600 003.

2. The Controller of Examinations,
Tamil Nadu Public Service Commission,
T.N.P.S.C.Road, V.O.C Nagar,
Park Town,
Chennai - 600 003.

+1 CC to M/s.S.POORNCHANDRAN, Advocate (SR-51423[F] dated 27/10/2022)

+1 CC to M/s.J.ANANDKUMAR, Advocate (SR-51468[F] dated 28/10/2022)

W.P(MD)No.24004 of 2022

27.10.2022

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