



W.P.No.778 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2023

CORAM :

**THE HON'BLE MR. JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ**

**W.P.No.778 of 2023
and
W.M.P.No.723 of 2023**

B.Balamurugan

... Petitioner

Vs.

1.The Judicial Recruitment Cell,
Represented by the Registrar General,
High Court,
Chennai - 600 104.

2.The Registrar (Recruitment),
High Court,
Chennai - 600 104.

3.I.Suresh

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned provisional selection list dated 21.12.2022 on the file of the second respondent herein as far as Nagapattinam Judicial District is concerned and quash the same and direct the official respondents to select the petitioner for the post of Driver in preference to the third respondent for appointment on direct recruitment to the post of Driver in Subordinate Judicial Service in Nagapattinam Judicial District, viz., Nagapattinam-Mayiladuthurai District.



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For petitioner : Mr.S.Sadasharam
For respondents : Mr.B.Vjay for R-1 and R-2
Mr.R.Muruga Bharathi for R-3

ORDER

(Order of the Court was made by R. MAHADEVAN, J.)

We are living in a Cyber era, in which, the recruitment process, especially, the process of scrutinizing the applications, is completely computerized and the applications are no longer filled up / submitted manually. Hence, the applications once submitted cannot be retrieved and edited. Realising this, the candidates have to be extremely vigilant and cautious while filling up the application form.

2.In the instant case, the petitioner, who had strenuously prepared for appointment to the post of Driver and was able to secure more marks in the examination conducted by the respondent authorities, could not get appointment, due to the simple mistake committed by him while filling up/submitting the application form. Now, let us examine the facts of the case and analyse the issue involved herein.

3.On 24.07.2022, the respondent authorities issued a notification no.194 of 2022, inviting applications through direct recruitment for the post of Driver in the Subordinate Judicial Service for Nagapattinam Judicial District, viz., for Nagapattinam and Mayiladuthurai District and the notification is only with respect



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to one post of Driver under the category of MBC/DC (Priority). The qualification specified is that the candidates must have passed VIII standard and possess a valid driving license for Motor Vehicles issued by the competent authority under the Motor Vehicles Act, along with a minimum of five years of practical experience in driving the motor vehicles.

4.The petitioner, being an undergraduate with a valid driving license and 5 years of experience, and belonging to the MBC category, submitted an online application. Subsequently, he participated in the written examination and secured 63 marks. Along with four other candidates, namely K.Kathirvel, S.Manikandan, M.Kanagarajan, and I.Suresh, the petitioner was called for a skill test, in which, he scored 32.33 marks, resulting in a total score of 95.33 marks out of 150. However, the third respondent, who scored 73.66 marks only, out of 150, was provisionally selected as per the list published by the second respondent on behalf of the first respondent. Feeling aggrieved, the petitioner has preferred this writ petition seeking a writ of certiorarified mandamus to quash the said Provisional Selection List dated 21.12.2022 and to direct the respondents to select him for the post of Driver in preference to the third respondent.

5.The learned counsel for the petitioner vehemently contended that the



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petitioner satisfies all the requirements as notified for the post of Driver and also secured an outstanding score of 95.33 out of 150 marks. However, his candidature was not considered, but the third respondent, who obtained a significantly lower score of 73.66 out of 150 marks, has been provisionally selected, which is highly arbitrary and discriminatory in nature. Therefore, the learned counsel sought to set aside the said provisional list published by the second respondent and appoint the petitioner to the post of Driver.

6. On the other hand, a report was filed by the Registrar General, High Court, Madras, denying the allegations made by the petitioner. According to the learned counsel appearing for the respondents 1 and 2, there was only one vacancy for the post of Driver notified for the category of MBC/DC (Priority), and hence, the said vacancy must be filled up, in strict compliance with G.O.Ms.No.22, HR (K2) Department, dated 02.11.2021 issued by the Government of Tamil Nadu, relating to 20 Priority Categories for filling up of posts falling under the Priority Posts. It is further submitted that the petitioner belongs to the Vanniyakular Kshatriya community, which falls under the MBC/DC Category and he completed the school education of 10 +2 in Tamil medium, however, he did not claim any reservation under the priority category, while submitting his online application in Sl.No.2.8, which states that "Are you claiming Reservation under priority category?", to which, he marked as "No" and hence, his candidature was not



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placed in the MBC/DC (Priority) category. Instead, his name was placed in the MBC/DC (Non-priority) Category along with two other candidates, viz., K. Kathirvel and S.Manikandan. It is also submitted that 5 candidates were called for skill test for filling up the one post of Driver in Nagapattinam District in the ratio of 1:5 viz., M.Kanagarajan and I.Suresh belonging to MBC/DC (Priority) and the petitioner along with K.Kathirvel and S.Manikandan belonging to MBC/DC (non-priority) and out of 5 candidates, the third respondent has been selected, in view of the fact that though the petitioner secured more marks than the third respondent, he is eligible to be considered only under the MBC/DC category. Therefore, the claim of the petitioner cannot be entertained and the writ petition is liable to be dismissed.

7.The learned counsel appearing for the third respondent submitted that the third respondent falls under the category of MBC/DC (Priority) category and hence, he is eligible to be selected for the post in question. Accordingly, he was selected by the second respondent as per the rules and regulations prescribed in the notification.

8.Heard the learned counsel appearing for all the parties and perused the materials available on record.



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9.The primordial contention of the learned counsel for the petitioner is that the petitioner obtained a score of 95.33 out of 150 marks, whereas the third respondent, who secured only 73.66 out of 150 marks, was provisionally selected for the post of driver by the second respondent, which is arbitrary, illegal and contrary to law.

10.It is not in dispute that as per the notification dated 24.07.2022, the post of Driver is reserved for the MBC/DC (Priority) category. It is also not in dispute that the petitioner belongs to the MBC category and that, he studied 10th standard and 12th standard in Tamil medium, and scored higher marks than other candidates in the examination conducted by the second respondent. However, the petitioner was not selected for the post in question, due to the mistake committed by him, while filling up the application with respect to priority category in Column No.2.8 of the application form. In this regard, the report dated 09.02.2023, filed by the respondent authorities is to be looked into, wherein, the details relating to name of the candidates called for skill test, category, marks obtained, etc. are tabulated, as under:

Sl. No.	Regn. No.	Name of the candidate	Category	Marks obtained in the written examination	Skill Test	Total marks
1	1942210029	Kathirvel. K	MBC/DC (Non-priority)	68	26.66	94.66
2	1942210080	Balamurugan.B	MBC/DC (Non- priority)	63	32.33	95.33



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Sl. No.	Regn. No.	Name of the candidate	Category	Marks obtained in the written examination	Skill Test	Total marks
3	1942210010	Manikandan.S	MBC/DC (Non-priority)	61	31.33	92.33
4	1942210067	Suresh.I	<u>MBC/DC (Priority)</u> (iii) Persons who have studied in Tamil Medium in Tamil Nadu Government Schools (Priority Sl.No.3)	44	29.66	73.66
5	1942210068	Kanagarajan.M	<u>MBC/DC (Priority)</u> (iii) Persons who have studied in Tamil Medium in Tamil Nadu Government Schools; <u>(Priority Sl.No.3, candidate not studied in Tamil Government Schools. Hence, he is not eligible under priority Sl.No.3</u> (viii) Ex-servicemen, EX-IPKF personnel and the wives, sons and unmarried daughters of serving of Military Personal of /Ex-Servicemen and Ex-IPKF <u>(Priority</u>	55	20.66	75.66



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Sl. No.	Regn. No.	Name of the candidate	Category	Marks obtained in the written examination	Skill Test	Total marks
			Sl.No.8)			

11.The above table would demonstrate that two candidates viz., Suresh and Kanagarajan, were shortlisted under the MBC/DC Priority category. Though Kanagarajan in Sl.No.5 scored 75.66 marks and claimed priority under the category of persons, who studied in Tamil medium, he was not considered as fit for selection as he did not meet the eligibility criteria of having studied in a Government school in Tamil medium and therefore, he was placed under priority Sl.No.8, which is meant for "Ex-Servicemen, Ex-Indian Peace Keeping Force Personnel and the wives, sons and unmarried daughters of serving military personnel of Ex-servicemen and Ex-Indian Peace Keeping Force". Whereas, the third respondent, who scored less marks than both M.Kanagarajan and the petitioner, who secured highest mark of 95.33 out of 5 candidates, was provisionally selected by the respondent authorities. Further, it was categorically stated in the report filed by the respondent authorities that the selection process was strictly in accordance with G.O.Ms.No.22, HR (K2) Department, dated 02.11.2021, issued by the Government, relating to 20 priority categories for filling up of posts falling under the priority posts. Hence, this court finds no error or illegality in the selection process so conducted by the respondent authorities.

12.At this juncture, it would be relevant to refer to the orders passed by



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the Division Bench of this court, in similar circumstances. In W.P.No.7950 of 2022 dated 04.04.2022, in the case of S.Sivaranjani v. Registrar General, High Court, Madras and others, the petitioner therein was falling in the priority quota under Group II(iii), but her candidature was not considered for the said quota, but considered only under Group I (ii) priority quota, as she submitted her application declaring her category to be Backward Class (other than Backward Class Muslims) and priority Group I(ii) by filling up column 2.17 of the application form. During the stage of certificate verification, she claimed for change of category from Group I(ii) to Group II (iii), but the same was rejected by this Court, by holding that the change of category was not permissible as per the conditions of the notification, as it could have serious repercussions on the selection process. The relevant passage of the said order is usefully extracted below:

"14. It is for the reason that if the petitioner would have declared the priority under Group II(iii) in the application itself, subject to the marks obtained by her in the written examination, her candidature would have been considered under Group II(iii). The written examination, followed by the practical examination, was based on the declaration made by the candidates and if it is changed at the fag, it would affect the declaration of the result of the written examination itself. Accordingly, if the petitioner is permitted to change the category, it would affect the result of the practical examination of both the categories, i.e. the category for which the petitioner made the application and the category to which the petitioner is now making a claim, because, if the prayer of the petitioner to change the category is considered, one meritorious candidate is required to be ousted from that category.

15. Further, all the posts under all the categories have been filled up from and among the candidates in waiting list. The change of the category in the midst of the game is not permissible and therefore, the petitioner-s candidature has been considered by the respondents in the category as declared by her in the application form. Clause 11 of the



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Notification dated 18.4.2021 categorically states that the applicants are bound by the Common Instructions. Paragraph 4(c) of the Common Instructions does not permit production of document for change of the declaration in the application form:

"4(c) All the particulars mentioned in the online application including name of the applicant, post applied for, educational qualifications, communal category, date of birth, address, e-mail ID etc. will be considered as final and no modification will be allowed after final submission of the online application. Since certain fields are mandatory and cannot be edited, applicants are requested to fill the online application form with utmost care and caution. No correspondence regarding change of details will be entertained."

(ii) In yet another order dated 02.08.2022, passed in W.P.No.841 of 2022, in the case of K.Lakshmi v. Registrar General, High Court, Madras and another, the petitioner therein claimed reservation under the category of MBC (Destitute Widow) and provided a certificate (No.7G37H2B) and obtained fee exemption, while submitting the application on 23.05.2021. However, during certificate verification, she produced a certificate obtained on 09.09.2021. Therefore, the respondent authorities rejected the claim of the petitioner for considering her candidature for the post of Sweeper taking her to be in the category of MBC(DW). The Division Bench also affirmed the said decision by observing as under:

"15. The notification pursuant to which the petitioner submitted the application does not postulate or provide that a candidate can submit a document even subsequent to the submission of the application or on the last date for it. In the absence of it, we do not find the action of the respondents to be illegal. They have not considered the candidature of the petitioner in the category of MBC (DW), but in the category of MBC (Women). Since the petitioner failed to secure the required qualifying marks for any post other than the post of Watchman, her candidature was considered and placed in the waiting list as per the merit position."



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The claim for appointment to the post of Sweeper has been made mainly on the ground that the petitioner is falling in the category of MBC (DW), for which no qualifying marks were given by the respondents while declaring the result to qualify the candidate for the next stage of selection. The aforesaid has been clarified by the learned counsel for the respondents giving out that for the post of Sweeper, no candidate has applied in the category of MBC (DW) and therefore, there was no question of giving the qualifying marks of that category for the post of Sweeper. In view of the above, the main attack of the petitioner on the procedure applied by the respondents cannot be accepted. In the absence of any candidate of a particular category, there was no reason for the respondents to give or provide qualifying marks to allow the candidate to appear for the next stage of selection. For the post of Sweeper, the qualifying marks of the candidates falling under the category of MBC (DW) was not given by the respondents in absence of application from any candidate in that category."

Thus, the legal principle enunciated from the above orders is that there can be no relaxation in the terms and conditions contained in the advertisement unless the power of relaxation is duly reserved in the relevant rules and / or in the advertisement.

13. In the light of the aforesaid legal position and having regard to the admitted fact that the notification clearly stated that the post in question is reserved for the MBC/DC (Priority) category and the petitioner failed to mark his priority category in the application form, he was not selected by the respondent authorities, though he secured highest mark than the third respondent in the examinations. Such selection cannot be found fault with, in the opinion of this court. Therefore, the writ petition is devoid of merits and is accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.



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[R.M.D,J.] [M.S.Q, J.]
05.06.2023

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Speaking Order / Non-speaking order

Internet : Yes.

Index : Yes / No

To

1.The Judicial Recruitment Cell,
Represented by the Registrar General,
High Court,
Chennai - 600 104.

2.The Registrar (Recruitment),
High Court,
Chennai - 600 104.



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R. MAHADEVAN, J.
and
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