



W.P.No.2208 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2023

C O R A M

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.2208 of 2023
and W.M.P.No.2287 of 2023

M. Tamilvanan

... Petitioner

Vs.

1. The Principal Secretary,
Revenue and Disaster Management Department,
Government of Tamil Nadu,
Fort St.George,
Chennai-600 059.

2. The Secretary,
Human Resources Management Department,
Government of Tamil Nadu,
Fort St.George,
Chennai-600 059.

3. The Chairman,
Tamil Nadu Public Service Commission,
TNPSC Road, Broadway,
Chennai-600 003.

... Respondents

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ in the nature of Mandamus, directing the 3rd respondent to reject the applications and candidatures of the unqualified and over quasified



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candidates with B.E., Degree who had applied for the post of Surveyor-cum-Assistant Draughtsman and consequently restrain them from participating in the Selection process and to conduct the selection as per law and Notification No.18/2022 dated 29.07.2022 on the file of 3rd respondent.

For Petitioner : M/s.V.Anthony Elangovan Raj

For Respondents : Mr.Ru.Dinesh Rajkumar

Additional Government Pleader for R1 & R2

: Mr.I.Abrar Md.Abdullah for R3.

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ORDER

This Writ Petition has been filed challenging the notification issued by the 3rd respondent dated 29.07.2022 insofar as entertaining the applications from candidates, who have completed B.E. Degree to consider them to the post of Surveyor-cum-Assistant Draughtsman and to strictly go ahead with the process of selection as per the Educational qualification prescribed in Clause - B of the notification.

2. The case of the petitioner is that the 3rd respondent had issued a notification dated 29.07.2022 calling for application to fill up the post of Surveyor-cum-Assistant Draughtsman. The further case of the petitioner is that the Educational qualification as prescribed under the notification in Clause-B is



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as follows:-

Sl.No	Name of the Post	Educational Qualification
1.	Field Surveyor in Survey and Settlement wing	I. A Diploma in Civil Engineering from any institute approved by All India Council for Technical Education. II.National Trade Certificate in the trade of Surveyor awarded by National Council for Vocational Training (for Surveyor) III.A Certificate in Army Trade Surveyor (field) issued by Madras Engineering Group.
2.	Draftsman in Survey and Settlement wing	I. A Diploma in Civil Engineering from any institute approved by All India Council for Technical Education. II.National Trade Certificate in the trade of Surveyor awarded by National Council for Vocational Training (for Draftsman) III.A Certificate in Army Trade Surveyor (field) issued by Madras Engineering Group.
3.	Surveyor-cum-Assistant Draughtsman in Town and Country Planning Department	a. A pass in the Draughts man ship (civil) course under the revised syllabus introduced from July 1952, conducted by the Government of India, Ministry of Labour: or b. A certificate in Army Trade Draughtsman (Field) issued by one President, Technical Testing Board, Madras Engineering Group and Centre; or c. A certificate in Draughtsman (Civil) issued by the Craftsman Training Centre; d.The National Trade Certificate of Draftsman (Civil) Trade or Surveyor Trade awarded by the national council for training in vocational Trades, Government of India through Industrial Training Institute and completion of successful training in apprenticeship under the Apprentices Act 1961; or e. Must possess a Diploma in Civil Engineering.



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3. The grievance of the petitioner is that the 3rd respondent is entertaining applications even from those candidates, who possessed B.E. Degree and according to the petitioner, such candidates are over qualified and they have other avenues/posts to seek for and the B.E. Degree is not a prescribed qualification as per the notification issued by the 3rd respondent. Aggrieved by the same, the present Writ Petition has been filed.

4. Heard M/s.V.Anthony Elangovan Raj, learned counsel appearing for the petitioner, Mr.Ru.Dinesh Rajkumar, learned Additional Government Pleader appearing for R1 & R2 and Mr.I.Abrar Md.Abdullah, learned counsel appearing for R3.

5. It is clear from the notification that the Educational Qualification has been prescribed for all the three posts for which applications have been invited. On carefully going through the Educational Qualification referred *supra*, B.E.Degree has not been mentioned and what has been stated is that a person must possess a Diploma in Civil Engineering. Apart from this qualification, there are other alternative qualifications also prescribed under the notification.



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However, the case on hand relates to Diploma in Civil Engineering since that is the qualification possessed by the petitioner.

6. The learned Standing Counsel appearing on behalf of the 3rd respondent submitted that the 3rd respondent always takes a clarification from the concerned Department before they entertain applications submitted by the persons who have higher qualification. In some cases, the applications are not entertained, where such applications are made by persons possessing higher qualification. However, in the present case, the first and second respondents have informed the 3rd respondent that applications given by the persons possessing B.E.Degree can also be entertained. Hence, the 3rd respondent is entertaining applications from those persons, who have completed B.E (Civil Engineering)

7. The first ground of attack by the learned counsel for the petitioner is that the 3rd respondent should not entertain applications from those persons, who are over qualified with the B.E.Degree. In the considered view of this Court, such a plea made by the learned counsel for the petitioner is unsustainable. The Apex Court in case of *Y.Srinivasa Rao vs. J.Veeraiah and Ors* [MANU/SC/0127/1993], 1992 (3) SCC 63 in C.A.No.1806 of 1992 dated



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27.04.1992, has categorically held that where a person is more qualified than what has been prescribed in the notification, his candidature cannot be rejected on the ground that he is over qualified and such a rejection is arbitrary and irrational. This Judgment has been followed by this Court in case of ***J.Jamuna vs. The District Collector Villupuram District, Villupuram and others, 2019 (2) Writ Law Reporter 956*** in W.P.No.16950 of 2019 dated 10.12.2019. Hence, the first ground that has been raised by the learned counsel for the petitioner is hereby rejected.

8. The second ground that has been raised by the petitioner is that the notification specifically prescribed certain qualifications and B.E is not a qualification which is prescribed under the notification. Under such circumstances, an application submitted by the B.E degree holder should not be entertained.

9. On carefully going through the Educational Qualification, one of the main qualification that has been prescribed is the Diploma in Civil Engineering. This Degree has been found to be suitable for the nature of post that is going to be filled up. If Diploma in Civil Engineering is found to be an eligible qualification, obviously B.E. Degree in Civil Engineering will definitely fit in



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within the qualification. In fact, it will stand on a higher footing insofar as the degree of Civil Engineering is concerned. Hence, even though B.E.Degree has not been prescribed under the notification, it is definitely a clear eligibility for persons to apply for the posts for which the application has been invited by the 3rd respondent. But, obviously it is an over qualification, however, this Court has already found that over qualification can never be a disqualification to apply for the selection. In view of the same, the second ground that was raised by the petitioner is also rejected.

10. The petitioner has applied for this selection. The application of the petitioner is going to be considered on par with the application which was submitted by a candidate, who has completed B.E.Degree. Therefore, the petitioner cannot have any grievance. Just because a person possesses B.E degree, that does not in any way put that candidate on higher pedestal and such a candidate will be considered on par with the candidate who possess a Diploma in Civil Engineering. Under such circumstances, the petitioner cannot have any grievance since a level playing field has been ensured.



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N.ANAND VENKATESH, J.

11. In the light of the above discussion, this Court does not find any merit in this Writ Petition. Hence the same is dismissed. No Costs. Consequently, the connected Miscellaneous Petition is closed.

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Speaking Order/Non-Speaking Order.

Internet : Yes/No.

Index: Yes/No.

Neutral Citation: Yes/No

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