



W.P.No.23394 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:23.06.2023

Delivered on: 21.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.No.23394 of 2019

&

W.M.P.Nos.23154,23156 and 23159 of 2019

C.Ramesh

... Petitioner

Vs.

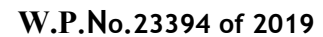
1.The Chairman
Tamil Nadu Public Service Commission
TNPSC road, Park Town
VOC Nagar, Chennai-600 003

2.The Secretary and Controller of Examination
Tamil Nadu Public Service Commission
TNPSC road, Park Town
VOC Nagar, Chennai-600 003

3.Hari Prasad C

4.The Additional Director General of Police
Dr.Radhakrishnan Salai,Mylapore
Chennai-600 004
(R4 suto motu impleaded vide
order dated 27.06.2022)

... Respondents





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ORDER

The petitioner has filed the present Writ Petition seeking issuance of a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in proceedings dated 14.11.2008 and quash the same in so far as calling for oral test of the 3rd respondent and quash the same and consequently direct the respondents to invite the petitioner for oral test and consider selection of the petitioner for the post of Automobile Engineer in the Police Transport Workshop-cum-Training School, Avadi and Regional Police Transport Workshop, Tiruchirappallli under general turn.

2. The case pleaded by the Writ Petitioner is that he belongs to Most Backward community. He is a B.E. Mechanical and M.E. Industrial and Safety Engineering graduate holding HMV as well as LMV licence. The 1st respondent issued a notification on 26.05.2017 calling for application (online) for posts of

(i) Automobile Engineering in Motor Vehicle Maintenance Department;



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(ii) Automobile Engineer in the Police Transport Workshop-cum-
Training School, Avadi and Regional Police Transport,

prescribing educational qualifications. The last date for application through online mode was 21.06.2017. The petitioner being eligible to apply for both the categories, applied online on 17.06.2017. As per Clause 10 of the notification, the selection was to be held in two stages.

(i) Written exam

(ii) Oral Test by way of an interview and final selection would be made on the basis of the total marks obtained in the written exam as well as the oral test, subject to rule of reservation.

3. The case of the petitioner is that he took the examination on 20.08.2017 and performed very well. Thereafter, he was invited by the TNPSC to come for verification of certificates along with 8 other candidates so as to maintain 1:3 ratio (3 post-9 persons called for certificate verification). Verification was held on 17.11.2017. In so far as the petitioner is concerned, a report of genuineness was sent by the owner of the workshop



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where the petitioner worked. However, without calling the petitioner for interview, a second certificate verification was undertaken on 09.02.2018 based on a letter dated 25.01.2018. To the shock of the petitioner, TNPSC called for a third certificate verification as well as fourth certificate verification subsequently. Though the petitioner was on the fond hope that he would be called for the oral interview based on merit, his number was not found in the provisional list of candidates who were admitted to the oral test to be held on 26.11.2018. The petitioner's application was rejected on the ground that he did not satisfy the eligibility conditions as per the norms stipulated in the notification. The petitioner sought for explanation from the 1st and 2nd respondents as to why he was rejected and thereafter he sought for information under Right to Information Act and came to understand that he had obtained 257 marks and also out of 41 candidates only 2 candidates had secured higher marks than him and one candidate was on par with the petitioner. The TNPSC published a list of registered numbers of candidates selected provisionally for appointment by direct recruitment on 06.12.2018. In so far as the 2nd category, one candidate was selected under General



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category and one candidate was selected under SC(A) category. According to the petitioner the candidates have also joined their respective posts pursuant to 06.12.2018. Aggrieved by the process adopted by the 1st respondent, the petitioner has filed the present Writ Petition challenging the multiple certificate verifications undertaken and the secret and arbitrary manner in which the entire procedure was gone about. Pending the Writ Petition the Additional Director General of Police was impleaded as a party respondent and was also directed to file a counter.

4. The respondents 1 and 2 have filed their counter. They attacked the very maintainability of the Writ Petition as against the Chairman, TNPSC as R.19 of the Tamil Nadu Public Service Commission Rules of Procedure 2017 empowers only the Secretary be the competent person to represent the Commission. In so far as the merits, it is stated that the petitioner's certificate was forwarded to the Police department for verification. The Head of the Department, viz., the DGP had replied that the petitioner has 3 years experience but he worked in a workshop that did not have sufficient number



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of workers as well as sufficient number of jobs and hence it was stated that the petitioner's work experience cannot be considered. Following the report of the DGP, the application of the petitioner was rejected. In so far as the process under taken by the respondents 1 and 2 by having multiple certificate verification sessions, it is justified on the ground that there were rejection of applications of some candidates and some of them were also absent for certificate verification. Therefore, in order to satisfy 1:3 ratio for admission of candidates, the respondents were compelled to conduct certificate verification across 4 phases. It is also stated that the 3rd respondent belongs to BC(OBCM) category and he attended the 4th phase held on 28.08.2018. His work experience was found to be satisfactory and he was called to attend the oral test held on 26.11.2018 and secured a total marks of 300.50 marks and was selected for the post under General turn. The petitioner's application was rejected based on the DGP's report and therefore the petitioner was not even called for the oral interview and the respondents 1 and 2 therefore prayed for dismissal of the Writ Petition.



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5. Additional counter has also been filed by the respondents 1 and 2 setting out the marks obtained by various candidates and the details of the 4 phase certificate verification undertaken and as to how many candidates were dealt with in each phase and as to how many were rejected for wrong claim and how many of the candidates were accepted as having provided satisfactory experience certificates and as to how many were rejected for not producing satisfactory experience certificate.

6. The 3rd respondent who was selected has filed his counter affidavit stating that on completing his B.E from Madras Institute of Technology with 1st class distinction, he got selected even in campus placement and joined Tata Motors and worked there for 3 years. Subsequently he was selected by Maruti Suzuki and he has experience of 10 years in the Automobile sector. The 3rd respondent further states that based on the marks obtained by him, he was called for certificate verification and since he was found fit and qualified for the post, he was asked to attend a personal interview on 26.11.2018. On 10.12.2018, he received a communication from the TNPSC that he was



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provisionally selected. Subsequently by G.O.(Ms) No.148 dated 05.03.2019, the 3rd respondent was appointed as Automobile Engineer. He has joined the said post and ever since he has been in continuous service. He has also completed his probation and he is now on regular appointment. The allegation of the petitioner that the oral test was only a formality is totally denied and it is stated that the entire selection was based on combined marks obtained in the written as well as oral test. The 3rd respondent also denies the fact that the petitioner was having necessary experience of 3 years from an Government approved work shop. It appears that the 3rd respondent obtained information under RTI regarding list of workers in the workshop where the petitioner claims to have gained experience and according to the 3rd respondent, the list of workers furnished by way of RTI does not even include the petitioner name. Therefore, the bonafides of the petitioner are also called in question in the said counter affidavit.

7. The impleaded 4th respondent viz., the Additional Director General of Police has filed a counter stating that there is no norms prescribed to come



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to a conclusion that a particular workshop is having enough staff.

8. The petitioner has filed a rejoinder to the counter affidavit filed by the 3rd respondent stating that if he had been called for the oral test, he would have obtained more marks than the 3rd respondent. He further contended in the said rejoinder that the 3rd respondent did not have the necessary experience of working in the Automobile workshop as mandated in the subject notification. In so far as the name not figuring in the list of workers, the petitioner has stated that he being a supervisor, his name would not be figuring in the list of workers. According to the petitioner, the 3rd respondent has obtained only 248 marks whereas the petitioner scored 257 marks in the written examination and therefore he was alone fit for appointment to the post.

9. Heard Mr. N.Subramaniam, learned counsel appearing for the petitioner and Mr.I. Abrar Mohammed Abdullah (TNPSC) standing counsel for the respondents 1 and 2, Mr.S.Namasivayam, learned counsel appearing

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for the 3rd respondent and Mr.D.Gopal, learned Government Advocate
appearing for the 4th respondent.

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10. This Court has perused the typedsets filed by the petitioner as well as the respondents 1 and 2 and the consolidated typedset filed by the 3rd respondent and also typedset filed by the 4th respondent.

11. It is seen from the notification dated 26.05.2017 that the 1st respondent invited online applications for filling up vacancies the post of Automobile Engineer in Motor Vehicles Maintenance Department and Automobile Engineer in the Police Transport Workshop-cum-Training School, Avadi and Regional Police Transport Workshop, Tiruchirapalli. The number of vacancies for the first post was only one and two for the second post. Even in respect of the said vacancies, the distribution of vacancies in respect of first category, one post was reserved for MBC and in respect of second category one post in General and one post for SC(A).



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12. In so far as the qualification prescribed, for the post of Automobile Engineer in Motor Vehicles Maintenance Department, apart from a degree in Automobile or Mechanical Engineering or a post diploma in Automobile Engineering awarded by the State Board of Technical Education and Training, Tamil Nadu or Licentiate or Diploma in Automobile or Mechanical Engineering an experience for a period of not less than five years in the administration of an office and the management of workshops connected with maintenance and upkeep of motor vehicles were prerequisites. The explanation reads as follows:

*“ A workshop shall mean any workshop
under the control of the
Government/Public/Private Organisation and
Registered under the Factories Act 1948”*

In so far as the second category for the post of Automobile Engineer in the Police Transport Workshop-cum-Training School, Avadi and Regional Police Transport Workshop, Tiruchirappalli, the qualifications prescribed were as follows:



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Automobile Engineer in the Police Transport Workshop-cum-Training School, Avadi and Regional Police Transport Workshop, Tiruchirappalli	(i) Must possess a degree in Automobile or Mechanical Engineering or Diploma in Automobile Engineering awarded by the Madras Institute of Technology, Chrompet or a Post Diploma in Automobile Engineering or Mechanical Engineering with Auto Elective as one of the subjects awarded by the State Board of Technical Education and Training, Tamil Nadu or of any recognised Institution or Board. (ii) Must have experience in supervisory capacity in an Automobile Workshop for a period as indicated below. <u>Degree Holders:</u> Not less than five years <u>Post Diploma Holders:</u> Not less than four years <u>Diploma Holders:</u> Not less than five years (iii) Must possess a valid license to drive light transport vehicles <u>Explanation-1</u> A recognised institution or Board shall mean institution or Board recognised by the Government of India or the Government of State in India <u>Explanation-II</u> Automobile workshop shall mean any Automobile workshop under the control of the Government/Public/Private organisation and registered under the Factories Act, 1948 (Central Act.LXIII of 1948)
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13. The counsel for the petitioner would contend that when he was called for certificate verification at the first instance in phase I, when he fully met the requirements in the notification, he ought not to have been denied right to participate in the oral test. Infact, he contends that he ought to have been called for the oral interview. The counsel would also contend that there is no yardstick adopted by the 1st respondent in the manner in which they went about a phased certificate verification. The 3rd respondent who came to be selected was called only in the last phase of certificate verification. Though the petitioner has obtained more marks in the written examination and he met the required eligibility criteria, his name was erroneously omitted and only in order to accommodate the 3rd respondent, the process of certificate verification was split up according to the counsel for the petitioner. He also pointed out the certificate verifications results wherein the petitioner's name found a place. However, the 3rd respondent's name was not figuring. He also pointed out to the notes appended to the said list wherein it is clearly mentioned that candidates whose registered numbers are found have been admitted provisionally to certificate verification based on the



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marks obtained in the written examination and with reference to rule of reservation of appointments. The counsel for the petitioner would also refer to the communications that emanated from the Police department regarding the verification of the experience certificate of candidates, in order to show that the petitioner was cleared. Immediately, on coming to know that his name was not included in the list of candidates calling for the oral test and that his application has been rejected for not satisfying the eligibility conditions as per norms stipulated in the notification, the petitioner also sent representations to the respondents 1 and 2 on 16.11.2018. According to the counsel for the petitioner, the respondents never replied to the same and therefore the petitioner was constrained to take recourse to Right to Information Act and get all necessary particulars. Therefore, he contended that the Writ Petition has to be allowed as the petitioner has been denied an opportunity to take the oral test, despite being fully qualified.

14. Learned standing counsel for the respondents 1 and 2 would submit that the contentions of the writ petitioner deserve no merit. Only for the



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purpose of convenience, the certificate verification was made in four phases.

However, the respondents had to comply with the ratio 1:3 for admitting candidates to oral test and only in strict adherence to the same they have carried out the certificate verification in four phases. It is also stated that there has been no bias exhibited by the respondents 1 and 2 and they have finalized the list only on merit, taking into account the number of vacancies and following rule of reservation.

15. The counsel for the 3rd respondent would submit that the 3rd respondent was called for the oral interview and thereafter he was selected and he has undergone the probation period and has been in regular employment for the past couple of years and therefore at this length of time, the clock cannot be set back to the detriment of the 3rd respondent's interest.

16. Learned counsel for the 4th respondent would submit that in compliance with the orders of this Court, post impleadment of the 4th respondent, the 4th respondent has clarified the steps taken by the 4th



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respondent pursuant to the request received from the TNPSC and that the facts have been clearly put forth in the form of an affidavit.

17. It is his specific stand that 4th respondent had submitted the verification report in December 2017. The Secretary of the 1st respondent addressed a communication to them on 04.01.2018 seeking clarification as to whether the experience acquired by the candidates is meeting job requirement for the said vacant post and therefore in compliance with the same, the 4th respondent has once again undertaken the exercise and submitted the report with regard to the petitioner. However, the 4th respondent has fairly admitted that no norms have been prescribed to come to a conclusion whether a particular workshop is having enough work and enough staff.

18. Having considered the arguments of the learned counsel for the petitioner as well as the counsel for the respondents, this Court would like to first and foremost hold that the petitioner qualified for the eligibility prescribed by the TNPSC and there can be no second opinion about the same.

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The only criteria which is contentious is now as to whether the petitioner gained the necessary experience by working in an automobile workshop which should have been registered under the Factories Act, 1948. The certificate produced by the petitioner was clearly indicative of the fact that he qualifies with the criteria. Infact, in the initial verification also which is also confirmed by the counter affidavit filed by the 4th respondent, it is clearly seen that the petitioner was cleared. However, pursuant to the clarification sought for by the Secretary of the 1st respondent, a second exercise has been undertaken and a report is given to the effect that the petitioner worked in a workshop which does not have enough employees or job work and only on this ground the petitioner's application has been rejected. In so far as the certificate verification process is concerned there is substance in the argument of the counsel for the respondents 1 and 2 that it would not be practically possible for undertaking the verification in respect of all candidates and for sake of convenience the 1st and 2nd respondent devised a procedure by which candidates who did not qualify would be weeded out. This procedure cannot be faulted. However, when the petitioner has scored



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more marks than the 3rd respondent and had been rightly called for certificate verification and he also having cleared the same, for extraneous reasons, that too unsustainable in law, it would not be open for the respondents to reopen the matter once again and prescribe conditions that were not part of the notification itself. Even if the rule of reservation had to be followed and maintained, nothing prevented the 1st and 2nd respondent to call the petitioner for oral interview when admittedly his marks were more than the 3rd respondent. The notification does not differentiate between the place of work where the candidates gain experience. The only condition is that the experience should be for a minimum period of three years and that the said automobile workshop should be one registered under the Factories Act. It is not the case of any of the counsel for the respondents that the automobile workshop where the petitioner worked was not registered under the Factories Act. Therefore, to cite a reason that the petitioner worked in a workshop where there were not enough employees and that the said workshop did not have enough job work is totally unreasonable and unconscionable. Even assuming the 1st and 2nd respondents were entitled to split the certificate



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verification process, they could not have denied the petitioner an opportunity to undergo the oral test/interview when admittedly, he was called in the first phase of certificate verification itself and the certificates were also found to be true and genuine.

19. In so far as the contentions of the counsel for the respondents 1 and 2 that during the first phase of certificate verification applications of four candidates were rejected and therefore it was necessary to admit candidates for the next phase of certificate verification in a revised ratio of 1:5 and that after completing four phases of verification meeting ratio 1:3, the oral test was held on 26.07.2018 calling eligible candidates based on marks obtained by them in the written examination cannot be faulted, this Court is unable to appreciate the procedure adopted by the 1st and 2nd respondents. Clearly the respondents have not adopted a transparent process to fill the vacant post. Admittedly, the petitioner who scored higher marks in the written examination was not even called for the oral interview despite meeting the eligibility criteria set out in the notification. The reasons assigned for



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rejecting the petitioner's application are clearly unsustainable for the simple reason that the notification never contemplated that the workshop where the candidates gained experience should have a minimum number of job works or minimum number of employees. When this is the only reason to reject the petitioner's application and not invite him for the interview and proceed to appoint the 3rd respondent who has scored lesser marks in the written examination than the petitioner, it is clearly violative of the valuable rights of the Writ Petitioner. Infact, this Court notices the first list admitting the candidates for certificate verification. It clearly states that candidates whose register numbers are found in the list have been admitted provisionally to the certificate verification based on marks obtained by them in the written examination and with reference to rule of reservation of appointment. Once the petitioner qualifies for being admitted to certificate verification, under the teeth of these notes, it his highly improper on the part of the respondents to deny the petitioner's right to participate in the interview. However, counsel for the respondents 1 and 2 would submit they are doing only the service of a post man, following the guidelines issued to them and ultimately it was for



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the department to meet the issue.

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20. This Court feels that the petitioner has been denied a level playing field in seeking appointment to the vacant post to which he was not only fully eligible at the time of application but had also obtained higher marks than the person who was chosen over him. Added to that when the certificate verification process was undertaken, he was also cleared at the first instance and for reasons not known the process has been re-opened and it only appears that it has been done only to deny the petitioner a right to take the oral test/interview. If the petitioner had been called for the oral interview then his marks secured in the said oral interview would have been added to the marks obtained by him in the written examination. Without even calling him for the oral interview and stating that the 3rd respondent has secured 300.5 marks is clearly unreasonable. The added advantage given to the 3rd respondent by including his marks secured in the oral interview cannot be put against the petitioner under any circumstances whatsoever. Infact, it is admitted all round that the petitioner scored 257 marks in the written examination as against 248

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marks alone scored by the 3rd respondent. The very process by which the candidates were called for four phases of certificate verification also does not appear to be fair, though convenience is the reason cited. If really, the conducting of a 4 phased verification process is only because of convenience, even then it is a clear case where the petitioner, despite clearing the first phase itself, has been denied an opportunity to attend the interview. Therefore, even if the plea of convenience justified, the manner of selection and omission is faulty and against principles of natural justice.

21. Moreover, there is absolutely no explanation on the side of the respondents 1 and 2 as to how the ratio 1:3 has been satisfied and as to how four phased manner of certificate verification aided the same. At the risk of repetition, the petitioner's application was rejected only on extraneous grounds which did not permit the respondents to reject it, when the petitioner had fully met the eligibility criteria prescribed in the notification for appointment itself. More so, this Court is of the view that only one post was vacant and all the more care and caution should have been taken by the



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respondents to adopt a very transparent procedure in filling up the post. As already held, the process of conducting verification in four phases cannot be faulted. But however, the manner in which the candidates have been called for each of the phases clearly defies logic and reason, which has resulted in a person obtaining 9 marks more in the written examination and found eligible being overlooked by another candidate who was called in the last phase, that too having obtained lesser marks.

22. For all these reasons, this Court is of the view that the petitioner is entitled to relief from this Court. No doubt, the 3rd respondent has been appointed and has completed his probation and his employment has been regularised as well. However, at the same time sympathetic considerations cannot prevail when there has been gross miscarriage of justice and violation of fundamental rights guaranteed to a person under the Constitution of India. The Doctrine of Equality has been certainly flouted in the present case and therefore the Writ Petition is allowed and the respondents 1 and 2 are directed to call the petitioner for an oral test and consider his selection to the



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post of Automobile Engineer in the Police Transport Workshop-cum-Training School, Avadi and Regional Police Transport Workshop, Tiruchirapalli subject to the marks obtained by him in the oral test/interview. In the event of the petitioner not ending up scoring total marks, over and above the 3rd respondent, then the selection of the 3rd respondent shall hold good. However, in the event of the petitioner surpassing the overall total obtained by the 3rd respondent after the oral interview is conducted, then the petitioner shall be appointed to the post of Automobile Engineer in the Police Transport Workshop-cum-Training School, Avadi and Regional Police Transport Workshop, Tiruchirappalli and the selection of the 3rd respondent shall stand quashed. This Court expects the respondents 1 and 2 to act in a fair and unbiased manner. The respondents shall carry out this exercise within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

21.07.2023.

Internet:Yes
Index:Yes/No
Neutral Citation:Yes/No
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To

1.The Chairman
Tamil Nadu Public Service Commission
TNPSC road, Park Town
VOC Nagar, Chennai-600 003

2.The Secretary and Controller of Examination
Tamil Nadu Public Service Commission
TNPSC road, Park Town
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3.The Additional Director General of Police
Dr.Radhakrishnan Salai,Mylapore
Chennai-600 004The Director
Indian Institute of Technology
Chennai-600 036



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P.B.BALAJI, J.,
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Pre-delivery order in
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