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W.P.No.28888 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.28888 of 2023

M.Anandhamuruugan

...Petitioner

Vs

Government of Puducherry,
Rep. by its Under Secretary to Government,
Dept. of Personnel & Administrative
Reforms (Personnel Wing),
Chief Secretariat,
Puducherry – 605 001.

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent to accept the application of the petitioner and enrol himself to attend the written exam for the recruitment of Post Technical Officer with the Puducherry Government.

For Petitioner : Mr.Om Prakash, Sr. Counsel
for Mr.V.Adhivarahan

For Respondent : Mr.R.Sreedhar,
Additional Government Pleader



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ORDER

With the consent of both the parties, this Writ Petition is taken up for final disposal.

2. In response to a notification for recruitment to the post of Technical Officer under the respondent Government dated 14.11.2022, the petitioner had made an effort to submit his online application on 05.12.2022. Though the application was sent as a preview document, he had inadvertently failed to submit the preview application. In this background, he had filed the present Writ Petition, seeking for acceptance of his application and for participation in the selection process.

3. The learned counsel for the petitioner submitted that the petitioner is fully qualified to apply to the post and in view of the small mistake committed by him in failing to submit the application, he should not be deprived of his valuable right in a public employment.



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4. Per contra, the learned Additional Government Pleader submitted that the proper forum to seek for redressal of the petitioner's grievance is the Central Administrative Tribunal and hence, the present Writ Petition has to be dismissed. Even otherwise, he submitted that, in the instructions to the candidates, it has been clearly mentioned that all precautions should be taken to ensure that the application is properly uploaded in the online portal. In case any mistake is committed by the applicant, whereby the application is not received by them, they will not be in a position to process the application.

5. Insofar as the maintainability of the present Writ Petition is concerned, it is no doubt true that the proper forum for redressal of the petitioner's grievance would be the Central Administrative Tribunal. However, in the instant case, it is seen that the last date for submission of the application is 15.12.2023. The scope of entertaining a prayer of this nature before the Tribunal would be limited when compared to the powers vested by this Court under Article 226 of the Constitution of India.



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6. This apart, the grounds that have been raised by the petitioner have already been settled by the Hon'ble Supreme Court, as well as this Court in various decisions and in order to apply the ratio laid down therein, the appropriate form would be invoke Article 226 of the Constitution of India, in view of the last date for submitting the application being 15.12.2023.

7. In this background, this Court is of the view that the present Writ Petition, without availing the statutory remedy before the Central Administrative Tribunal, would be maintainable. However, it is made clear that this order shall not be a precedent to any other case of a similar nature.

8. It is no doubt true that when the mandatory conditions in the instructions to candidates of the notification are violated, the respondent department will be well within its powers to reject the candidature of a candidate. However, when certain minor infractions have been committed by a candidate, the Hon'ble Supreme Court, in several decisions, has come to the rescue of such candidates, by holding that



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these minor errors should not deprive a candidate's valuable right to seek for public employment.

9. In the case of ***Charles K. Skaria vs. Dr.C.Mathew*** reported in ***1980 (2) SCC 752***, which was subsequently followed in ***Dolly Chhanda vs. Chairman, JEE and others*** reported in ***2005 (9) SCC 779***, the Hon'ble Supreme Court had held that every infraction of the rule need not necessarily result in rejection of candidature. Likewise, these decisions were followed by me in the case of ***M.Mageshwari vs. The Member Secretary, Tamil Nadu Public Service Commission, Chennai***, passed in ***W.PNo.4397 of 2020, order dated 22.09.2021***, wherein I had condoned the minor mistake committed by a candidate in mentioning the Gender as "Male" instead of "Female" and had directed for issuance of provisional appointment order to the concerned Department. The relevant portion of Mageshwari's case reads as follows:

“4. The Hon-ble Supreme Court in the case of Dolly Chhanda Vs. Chairman, JEE and others reported in 2005 (9) SCC 779, had held that every infraction of the rule relating to submission of proof need not



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necessarily result in rejection of candidature.

5. A learned Single Judge of this Court in the case of K.Ganapathy Vs. Member Secretary, TNPSC, Chennai passed in W.P.No.9289 of 2020, dated 05.02.2001, had also held that a minor error inadvertently committed by a candidate, should not deprive his valuable right of gaining employment in Public Service. The same view was reiterated in the case of M.Abiramadevi V. The Secretary, TNPSC, Chennai and another passed in W.P.No.4700 of 2020 dated 05.02.2021.

6. In the present case, the petitioner is otherwise qualified to be appointed in the selection process but for the minor mistake committed by her in the application. By applying the ratio held in the above cited decisions, it could be held that such a minor error of mentioning "Male" instead of "Female" as petitioner's gender, should not deprive her of the appointment in the Public Service. This Court has also taken note of the fact that the petitioner herein has already been provisionally appointed as Junior Assistant in the School Education Department with a rider that the appointment would be subject to the outcome of the present Writ Petition.



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7. For all the foregoing reasons, there shall be a direction to the respondent herein to ratify the provisional appointment given to the petitioner as a Junior Assistant in the School Education Department, within a period of two weeks from the date of receipt of a copy of the order of this Court. The Writ Petition stands allowed accordingly.”

10. In all the aforesaid decisions, the minor mistakes or failure on the part of the candidates to upload certain documents were condoned by the Hon'ble Supreme Court, as well as this Court and the candidates were also given an opportunity to participate in the further selection process.

11. It is not in dispute that the petitioner had taken efforts to submit the application and it has come to the preview stage. A copy of the preview screen-shot has also been produced before this Court.

12. The learned Additional Government Pleader, on instructions, submitted that in case this Court is of the view that the petitioner may be permitted to participate in the selection process, he may be directed to



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submit a copy of the preview of his original application dated 05.12.2022, along with a representation and a copy of this order, manually before the respondent herein.

13. In the light of the above observations, the petitioner is granted liberty to give a representation to the respondent herein, together with a copy of the preview application, within a period of one week from the date of receipt of a copy of this order. On receipt of such a representation and the preview application, the respondent shall accept the same and process it in accordance with the procedure contemplated under the notification, if the application is otherwise in order.

14. Accordingly, the Writ Petition stands allowed. No costs.

14.12.2023

Index:Yes

Neutral Citation:Yes

Speaking order

hvk

Note: Issue order copy on 04.01.2024



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To

The Under Secretary to Government,
Government of Puducherry,
Dept. of Personnel & Administrative
Reforms (Personnel Wing),
Chief Secretariat,
Puducherry – 605 001.



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M.S.RAMESH,J.

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