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W.P.No.31637/2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 02-11-2023

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.31637 of 2023

A.Sugapriya

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Petitioner

-VS-

1.The Registrar General,
High Court of Madras,
Chennai.

2.The Tamil Nadu State Judicial Service,
rep.by its Director,
No.30 (95), "Malligai",
PSKR Salai, Greenways Road,
Raja Annamalaipuram,
Chennai.

3.The Tamil Nadu Public Service Commission,
rep.by its Secretary,
TNPSC Road, VOC Street,
Park Town,
Chennai.

4.The Controller of Examinations,
Tamil Nadu Public Service Commission,
TNPSC Road, VOC Street,
Park Town,
Chennai.

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Respondents



Petition under Article 226 of the Constitution of India, praying for issuance of a writ of mandamus directing the respondents to permit the petitioner to participate in the Main Examination (Descriptive Type) to be held on 04.11.2023 and 05.11.2023, for Translation Paper, Law Paper-I, Law Paper-II and Law Paper-III, conducted by the respondents 2 and 3 for the post of Civil Judge in the Tamil Nadu State Judicial Service.

For Petitioner : Mr.V.Karthikeyan

For Respondent 1 : Mr.B.Vijay

For Respondents 3 & 4 : Mr.R.Bharanidharan

ORDER

(By *S.Vaidyanathan,J.*)

Petitioner has come forward with this Writ Petition seeking for a mandamus to permit her to take part in the Main Examination (Descriptive Type) to be held on 04.11.2023 and 05.11.2023 for Translation Paper, Law Paper-I, Law Paper-II and Law Paper-III, conducted by the respondents 2 and 3 for the post of Civil Judge in the Tamil Nadu State Judicial Service.

2. According to the petitioner, she has completed 5 year Law Graduation at Sastra University, Thanjavur, in the year 2018 and that she is eligible to participate in the Civil Judge Examination, to be conducted by the respondents. In this regard, she appeared for the Preliminary Examination on 19.08.2023 and came out successful. Thereafter, to participate in the Main Examination, she paid a fee of Rs.200/- and



received an acknowledgement to the effect that the amount has been tendered successfully. When she attempted to download the Hall Ticket for the Main Examination, a message popped up, showing "non-receipt of examination fees". Her case is that due to technical defect, the amount has come back to her account, which fact was not known till the Hall Ticket was downloaded, which was not at all her fault.

3. Only on technical defects, the candidature of the petitioner should not be rejected at the threshold when she has come out successful in the Preliminary Examination and she having paid the amount, which was shown as successful initially, and, at a later point of time, at the time of downloading the Hall Ticket, a message popped up, showing non-payment of fee.

4. Therefore, we are of the view that the petitioner has come out successful in the Preliminary Examination and, on account of technical defects, the examination fee of Rs.200/- did not reach the respondents, for which neither the petitioner nor the respondents are at fault. Hence, we permit the petitioner to pay the fee of Rs.200/- by way of a Demand Draft or any other mode to enable her to take part in the Main Examination, scheduled for 04.11.2023 and 05.11.2023.

5. The Supreme Court, in *Sanjay K.Dixit v. State of Uttar Pradesh*, 2019 (17) SCC 373, referring to the decision of the Apex Court in *Bedanga Talukdar v. Saifudaullah Khan*, 2011 (12) SCC 85, held as follows :



"11. Admittedly, the Rules governing the selection to the posts of Technician Grade-2 (Apprenticeship Electrical) require every candidate to submit a DOEACC certificate signifying completion of 80 hours CCC at the time of interview. Such condition was made compulsory. The advertisement also contained the condition regarding submission of the certificate at the time of interview. There is no doubt that there exists a power of relaxation of any of the Rules which could be exercised by the Chairman of the Corporation. It is nobody's case that the Chairman/ Managing Director was not competent to relax the Rules. But, the submission made by the learned counsel for the Writ Petitioners is that the relaxation could not have been done as the advertisement did not mention about a possible relaxation of the Rules. We find force in the said submission made on behalf of the Writ Petitioners as this Court in Bedanga Talukdar (supra) held as follows:

"29. In our opinion, it is too well settled to need any further reiteration that all appointments to public office have to be made in conformity with Article 14 of the Constitution of India. In other words, there must be no arbitrariness resulting from any undue favour being shown to any candidate. Therefore, the selection process has to be conducted strictly in accordance with the stipulated selection procedure. Consequently, when a particular schedule is mentioned in an advertisement, the same has to be scrupulously maintained. There cannot be any relaxation in the terms and conditions of the advertisement unless such a power is specifically reserved. Such a power could be reserved in the relevant statutory rules. Even if power of relaxation is provided in the rules, it must still be mentioned in the advertisement. In the absence of such power in the rules, it could still be provided in the advertisement. However, the power of relaxation, if exercised, has to be given due publicity. This would be necessary to ensure that those candidates who become eligible due to the relaxation, are afforded an equal opportunity to apply and compete. Relaxation of any condition in advertisement without due publication would be contrary to the mandate of equality contained in Articles 14 and 16 of the Constitution of India."

12. We are in respectful agreement with the above judgment of this Court. Exercise of the power of relaxation without informing the candidates about the existence of such power would be detrimental to the interests of others who did not possess the certificate and did not take part in the selection process. We are unable to accept the submission that selection is on the basis of the performance of the



candidates in the written test and interview and that the DOEACC certificate is not an essential requirement. The Rule as well as the advertisement provide for submission of the certificate at the time of interview, compulsorily. The Rule further provides for production of the certificate as an additional requirement for selection. The above stipulation in the Rule as well as the advertisement cannot be ignored."

6. Respondents are expected to apply the same yardstick to other candidates also in case a similar incident, as in the present case, takes place.

7. Writ Petition is allowed. No costs.

Index : Yes/No
Internet : Yes/No
dixit

(S.V.N.,J.) (K.R.S.,J.)
02-11-2023

Note to Office :
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To

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High Court of Madras,
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