



W.P.(MD).No.7508 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 05.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.7508 of 2023

and

W.M.P(MD) Nos.7004 to 7006 of 2023

S.Baharul Hussain
(Ex.Service Man)

... Petitioner

Vs.

1. The Secretary
Tamil Nadu Public Service Commission,
Chennai.

2. The Controller of Examinations,
Tamil Nadu Public Service Commission,
Chennai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned exam results for the posts included in combined Civil Service (Group-IV Services) published on 24.03.2023 in TNPSC website in respect of the petitioner and quash the same and further direct the respondents to include the name of the petitioner under Ex-service Man special category.



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For Petitioner : Mr.T.S.Mohamed Mohideen
For Respondents : Mr.V.Paneer Selvam
Standing Counsel

ORDER

The present writ petition has been filed challenging the Selection List published by the Tamil Nadu Public Service Commission for Group -IV Examination that was published on 24.03.2023.

2. According to the learned counsel appearing for the petitioner, the petitioner is an Ex-Serviceman, who was discharged from his service on 30.11.2021. Thereafter, he became a Member of Tamil Nadu Ex-service Man Corporation Limited (TEXCO), which is a State Government Corporation established with an aim to provide necessary assistance for rehabilitation of Ex-Serviceman. As a member of TEXCO, he was employed as a Watchman in Tiruchirappalli, on contract basis. He made an application for Group-IV Examination, for which, notification was issued by the first respondent herein. In the application form, the Tamil Nadu Public Service Commission has directed the applicants to mention whether they are



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Government employees and show the employees status and the name of the organisation and designation. In the application form, the petitioner has mentioned that he is a State Government employee and shown the name of the organisation as TEXCO and he was working as a Security Guard.

3. While publishing the results, the Tamil Nadu Public Service Commission treated the petitioner as a Government servant and considering the fact that the petitioner belongs to Backward Class (Muslim), ranking was arrayed. As per the said ranking, the petitioner did not come within the zone of consideration. However, it is the grievance of the writ petitioner that just because he is a Member of TEXCO, he will lose his identity as an Ex-Serviceman and he should be considered under the Ex-Serviceman quota.

4. The learned Standing Counsel appearing for the Tamil Nadu Public Service Commission submitted that once a candidate has already been in Government service, he can be considered only under the communal reservation or other priority. That apart, once the petitioner has exercised his priority rights of the Ex-serviceman and obtained a post, for the second time, he cannot be considered under the said quota. Therefore, the Tamil



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Nadu Public Service Commission was right in not considering the petitioner under the Ex-Serviceman quota.

5. I have carefully considered the submissions made by the learned counsel on either side and perused the material on records.

6. There is no dispute that the petitioner is an Ex-Serviceman, who was discharged from service on 30.11.2021. The petitioner has become a member of the Tamil Nadu Ex-service Corporation Limited and the said Corporation has provided contract employment as a Security Guard. No doubt, the said Corporation is a State Government Corporation. It is formed for catering to the welfare of the Ex-Serviceman. The petitioner can never be considered to be a Government servant. Therefore, the contention of the first respondent herein that he has used his Ex-Serviceman quota to obtain Government employment is not legally sustainable. The petitioner being a member of TEXCO, can never be considered to be an appointment achieved by the petitioner on the ground of Ex-Serviceman quota, because all the members of TEXCO are only Ex-Serviceman.



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7. In the application form, the petitioner has specifically mentioned the name of the organization - TEXCO and he is working as a Security Guard. Therefore, the petitioner had clearly mentioned that he is working only in State Government Corporation and he is not a Government servant, following Clause 12(A) of the notification issued by the Tamil Nadu Public Service Commission.

8. Just because, the petitioner is a member of TEXCO, he can never be considered as a Government servant. The first respondent has erroneously rejected the request of the petitioner to be considered under the Ex-Serviceman quota. The petitioner continues his Ex-Serviceman status till a regular appointment is achieved by the writ petitioner.

9. In view of the above said facts, the impugned result published by the Tamil Nadu Public Service Commission is hereby set aside and the first respondent is directed to consider the name of the writ petitioner under Ex-Serviceman quota and pass orders accordingly, within a period of eight weeks from the date of receipt of a copy of this order.



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10. With the above said observations, this Writ petition stands disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous petitions are closed.

05.12.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Secretary
Tamil Nadu Public Service Commission,
Chennai.
2. The Controller of Examinations,
Tamil Nadu Public Service Commission,
Chennai.



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R.VIJAYAKUMAR,J.

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