



W.P.(MD).No.11310 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 16.08.2023

PRONOUNCED ON : 27.09.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.11310 of 2022

and

W.M.P(MD)No.8079 of 2022

Mangalajothykumar

... Petitioner

Vs.

- 1.The Secretary,
The Tamil Nadu Public Service Commission,
TNPSC Road, V.O.C Nagar,
Park Town,
Chennai – 600 003.
- 2.The Under Secretary,
The Tamil Nadu Public Service Commission,
TNPSC Road, V.O.C Nagar,
Park Town,
Chennai – 600 003.
- 3.The Controller of Examination,
The Tamil Nadu Public Service Commission,
TNPSC Road, V.O.C Nagar,
Park Town,
Chennai – 600 003.
- 4.The Director of Technical Education,
The Directorate of Technical Education,
No.53, Sardal Patel Road,
Guindy, Chennai – 600 025.



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5.The Director,
Backward Classes and Minorities Welfare Department,
Chennai.

6.The Equivalence Committee,
The Member Secretary,
Tamil Nadu State Council for Higher Education,
Chennai. ... Respondents

(R – 6 is suo motu impleaded vide order
dated 11.08.2023)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the communication dated 23.11.2021 in Letter No. 5080/APD-C2/2019 passed by the second respondent and quash the same and consequently direct the respondent Nos.1 to 3 to accept the Special High level Computer Training Programme Certificate issued by the Backward Classes and Minorities Welfare Department, Chennai is equivalent to computer course certificate issued by the Directorate of Technical Education as per the G.O.No.26, Personnel and Administrative Reforms (S) Department, dated 23.02.2017 and to direct the respondents No.1 to 3 to consider the petitioner for appointment to the posts of Assistant Tourist Officer, Grade-II included in Tamil Nadu General Subordinate Service, 2019 taking into consideration of the marks and rank secured by the petitioner within the period stipulated by this Court.



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For Petitioner	: Mr.R.Gandhi Senior Counsel for J.Karthikeyan
For RR 1 to 3 & 6	: Mr.V.Paneer Selvam Standing Counsel
For RR 4 & 5	: Mr.N.Ramesh Arumugam Government Advocate

ORDER

The present Writ Petition has been filed by the petitioner for issuance of a Writ of Certiorarified Mandamus, to quash the communication dated 23.11.2021 in Letter No.5080/APD-C2/2019 passed by the second respondent and consequently direct the respondent Nos.1 to 3 to accept the Special High level Computer Training Programme Certificate issued by the Backward Classes and Minorities Welfare Department, Chennai is equivalent to computer course certificate issued by the Directorate of Technical Education as per the G.O.No.26, Personnel and Administrative Reforms (S) Department, dated 23.02.2017 and to direct the respondents No.1 to 3 to consider the petitioner for appointment to the posts of Assistant Tourist Officer, Grade-II included in Tamil Nadu General Subordinate Service, 2019 taking into consideration the marks and rank secured by the petitioner within the period stipulated by this Court.



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2.Heard Mr.R.Gandhi, learned senior counsel appearing for the petitioner, Mr.V.Paneer Selvam, learned standing counsel appearing for the respondents 1 to 3 and 6 and Mr.N.Ramesh Arumugam, learned Government Advocate appearing for the respondents 4 and 5 and perused the materials available on record.

3.The petitioner is a Post Graduate, who completed his Master Degree in Tourism Management in the year 2001. He did his Bachelor Degree in Chemistry in the year 1996. Apart from that, he has also successfully completed 1 year training programme in "Special High Level Computer Training Program" conducted by Government of Tamil Nadu (Backward Classes and Minorities Welfare Department, Chennai along with ELCOT in 2002. The petitioner belonged to Most Backward Class/Denotified Community. In the year 2008, he also completed a certified course in Diploma in Office Automation. He also completed computer training programme in the year 1999 and was issued with the certificate by Mohamed Sathak Polytechnic, Kilakkarai.



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4. On 22.07.2019, the first respondent issued a notification vide notification No.22/2019 for the Direct Recruitment to the post of Assistant Tourist Officer, Grade-II. The selection process consisted of written examination and certificate verification. The petitioner applied for the recruitment to the said post and attended the written examination held on 29.09.2019. When the results were declared and ranks were published on 18.12.2019, the petitioner obtained 234 marks and stood 47th rank in the overall ranking assigned by the respondent. Out of 42 posts, 5 posts were earmarked for MBC/DNC general category. The petitioner stood 5th in communal rank as per the list published by the first respondent. Thereafter, on 31.12.2019 the first respondent published a list of candidates who have been admitted provisionally to the Certificate Verification and called them for uploading the scanned original certificate for certificate verification. Since the petitioner's register number was also published in the list of selected candidates for certificate verification, he uploaded all the scanned original documents.



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5. On 18.01.2020 acknowledgement was also given for uploading of the documents for certificate verification. However, the petitioner did not receive any intimation for counselling. Hence, the petitioner sought information under the Right to Information Act, 2005 to the first respondent. To the shock and surprise of the petitioner, it was informed by the first respondent that out of total 42 vacancies, only 26 vacancies were filled and the remaining vacancies are not filled.

6. Since the petitioner is fully qualified and has scored high marks and has been given 5th rank in the communal ranking, he made a representation to the first respondent on 02.04.2021, requiring the petitioner to call him for counselling for the post of Assistant Tourist Officer by putting forth that closing the counselling without calling him would be arbitrary and requested to consider his candidature. Another representation was also sent on 19.06.2021 to the first respondent by the petitioner. After a lapse of 4 months, the second respondent had sent the impugned communication dated 23.11.2021 rejecting the petitioner's candidature on the ground that he did not possess the requisite qualification as per the notification and the certificate issued by the Government of Tamil Nadu (Backward Classes and Minorities



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Welfare Department, Chennai) and that ELCOT and SRM Infotech was not equivalent to the Certificate Course in Computer on Office Automation as issued by the fourth respondent. Challenging the same, this Writ Petition came to be filed.

7.The second respondent has filed a counter-affidavit. The learned standing counsel appearing for the respondents 1 to 3 & 6 submitted that though the petitioner's name has been shortlisted for the 1st phase of certificate verification for the recruitment to the post of Assistant Tourist Officer, Grade-II in Tamil Nadu General Subordinate Service, the application of the candidate was rejected as he had studied Diploma in Office Automation and obtained the certificate from a private institution and possessed Special Leave Training Programme Certificate obtained from the Backward Classes and Minorities Welfare Department. Since both the computer qualifications are not equivalent to the qualification prescribed in para 6(B) & II of the second respondent Commission's Notification No.22 of 2019, dated 22.07.2019, his candidature came to be rejected and pressed for dismissal of the Writ Petition.



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8.For clarity, para 6(B) & II of the Commission's Notification No.22 of 2019, dated 22.07.2019, is extracted as follows:-

"Application should possess the following qualification awarded by any University or Institution recognized by the University Grants Commission on the date of Notification.

(ii) Must have under gone Certificate Course in Computer on Officer Automation offered by the Department of Technical Education, Government of Tamil Nadu or any equivalent courses offered by any institution recognized by department of Electronics and Information Technology of Government of India – All India Diploma programs or any higher level programme in which office automation is a subject like DOEACC – 'O' level, 'A' level, etc."

9.It is pertinent to mention here that as per Note (II) of para 6(B) of the Notification, the applicants claiming equivalence of educational qualification should submit the evidence of equivalence and the G.O declaring equivalence of prescribed qualification, after the date of the said notification, will not be accepted. Obviously, the petitioner does not have the qualification as prescribed in para 6(B) of the Notification No.22 of 2019, dated 22.07.2019.



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10.As the petitioner does not possess the prescribed educational qualification and as he did not produce any evidence to prove that his qualification is an equivalent one to the prescribed qualification, his candidature came to be rejected in terms of para 6(B) (ii), Note(II) of para 6 and 15 of the Notification. Though the petitioner belonged to the Most Backward Community, he managed to score high marks in the selection process and was ranked 5 in his communal ranking. Though out of 42 vacancies, only 26 vacancies has been filled, it is too unfortunate for the petitioner's candidature being rejected for the reason that he was not able to produce equivalence certificate. However, the learned Single Judge of this Court in the case in **W.P.No.28251 of 2018, dated 29.11.2021 (N.Karthik Vs. The Secretary, the Tamil Nadu Public Service Commission and others)** has passed favourable orders to the petitioner thereat and the relevant portion of which is extracted as follows:-

"43. It is noticed that the Government of Tamil Nadu by a G.O.Ms.No.441, Personnel & Administrative Reforms (Per.R) Department, dated 20.12.1993 constituted an Expert Committee to examine the requests of Educational Institutions to recognize the courses offered by them for the purpose of appointment in Public Services. The said



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Committee is constituted under the Chairmanship of the Chairman, Tamil Nadu Public Service Commission with the following members:-

i. The Vice-Chancellor of the Madras University

ii. The Vice-chancellor of the Annamalai University

iii. The Secretary to Government of Tamil Nadu Personnel and Administrative Reforms Department

iv. The Secretary to Government of Tamil Nadu, Education Department

v. The Director of Collegiate Education, Madras

vi. The Director of Technical Education, Madras

44. As per the aforesaid G.O., all requests for recognition of courses for purposes of employment in Government are to be forwarded to the Secretary, Tamil Nadu Public Service Commission for being placed before the Committee constituted for the aforesaid purpose. Though the said Committee is to meet once in a year and as and when a need arises, I am of the view that the Committee can be directed to examine whether the qualification of the petitioner in M.A. (English) meets the technical requirements.



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48. *The first to third respondents are therefore directed to refer the case of the petitioner to the Equivalence Committee which is the Competent Authority for obtaining appropriate clarification as to whether the course undergone by the petitioner in computing (Basic and Advanced) includes the all subjects in the Certificate Course in Computer on Office Automation (COA) offered by the Directorate of Technical Education or not.*

11. In addition to that, this Court in ***W.P(MD)No.5460 of 2021 (S.Venkateshwaran Vs. The Principal Secretary to Government and others)*** in a similar case has passed an order dismissing the Writ Petition on 30.11.2022 and the relevant portion of which is extracted as follows:-

"4. Though the contentions of the learned counsel appearing for the writ petitioner are highly persuasive, I cannot grant relief. This is because the recruitment notification contains the following disclaimer:-

"The Government Orders relating to Equivalence of Qualification are available in the Tamil Nadu Public Service Commission's website. However, the applicants while applying for the Examination should furnish



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the details of Equivalence of Qualification declared in the form of Government orders issued on or before the date of this Notification if any, and produce the same while submitting the documents, failing which their application will be rejected. The Government Orders issued regarding Equivalence of prescribed qualification after the date of this Notification will not be accepted.”

5. The aforesaid disclaimer reads that the Government Order issued regarding equivalence of prescribed qualification after the date of this Notification will not be accepted. Here the date of notification is 21.06.2019. The Government Order regarding equivalence was issued only on 03.06.2022. It is well settled that a candidate participating in the selection process is bound by the instructions of the notification. I have to necessarily sustain the impugned order. It is however made clear that since the equivalence has already been declared, the petitioner is eligible to take part in the future recruitment processes. With this observation, this writ petition stands disposed of.”



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12. Even in the case in hand, with respect to the Notification No.22 of 2019 for the Direct Recruitment to the post of Assistant Tourist Officer, Grade-II, dated 22.07.2019, there is a disclaimer clause which reads that the Government order issued regarding equivalence of prescribed qualification after the date of notification will not be accepted.

13. I am fully in consonance of the decisions of this Court discussed supra, wherein it has been held that a candidate participating in the selection process is bound by the instructions of the notification. As a result of which, I have to necessarily sustain the impugned order. However, this Court has *suo motu* impleaded the Equivalence Committee as the sixth respondent and hence, this Court hereby direct the second respondent to place the case of the petitioner before the sixth respondent. The sixth respondent, who is the competent authority for issuing appropriate clarification as to whether the certificate course undergone by the petitioner in Diploma in Office Automation is equivalent to the certificate course in computer in Office Automation offered by the Department of the Technical Education, Government of Tamil Nadu, is directed to examine the petitioner's certificates and pass appropriate orders as to the petitioner's



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qualification. This exercise shall be carried out by the respondents within a period of 30 days from the date of receipt of a copy of this order and the sixth respondent is directed to issue the equivalence certificate if the certificate course undergone by the petitioner is equivalent to the certificate course in Computer in Office Automation offered by the Department of Technical Education, Government of Tamil Nadu. If the petitioner's qualification is found equivalent to the qualification as required in Clause 5 of the Notification No.22 of 2019, dated 22.07.2019, exercising the extra-ordinary powers conferred on this Court under Article 226 of the Constitution, I direct the respondents 1 to 3 to issue appointment letter to the petitioner as Assistant Tourist Officer Grade II, within a period of thirty days thereafter subject to the petitioner possessing requisite qualification.

14.By way of abundant caution, I am bound to observe that, only considering the fact that the petitioner was one among the five candidates under the communal category of MBC/DNC (among the 622 candidates who participated in the selection process), who were shortlisted for 1st phase certificate verification, on the principles of equity, this Court further direct the respondents 1 to 3 to relax the condition stipulated in Note (2) of Clause 5 of the Notification No.22 of



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2019, dated 22.07.2019 as a one time measure, in the case of petitioner alone and issue him with appointment letter, subject to the petitioner possessing requisite qualification.

15.In view of the above discussions, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

27.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
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L.VICTORIA GOWRI, J.

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