



W.P.(MD).No.6389 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.02.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.6389 of 2019

and

W.M.P.(MD).No.5094 of 2019

M.Kannan

... Petitioner

Vs.

The Secretary,
Tamil Nadu Public Service Commission,
Chennai.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the respondent in his memorandum No.4108/PSD-H2016 dated 22.2.2019 and to quash the same and consequently direct the respondent to allot the petitioner to the post in Tamil Nadu Ministerial service in Registration Department included in Group IV services for the year 2015-16 to which he has been provisionally selected for appointment by direct recruitment with all consequential service and monetary benefits.



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For Petitioner : Mr.Aayiram K.Selvakumar

For Respondent : Mr.V.Panneer Selvam,
Standing Counsel.

ORDER

This Writ Petition is filed challenging the impugned order dated 22.02.2019 with a consequential relief to allot the petitioner in the selected post with consequential monetary benefits.

2. The petitioner is having qualification of Bachelor of Mechanical Engineering and obtained PSTM Certificate. The TNPSC has issued notification No.15/2016 calling for the applications from the eligible candidates for the posts included in Group-IV services. Since the petitioner is eligible, he has applied vide application No.615014720 on 10.08.2016. The petitioner attended the exam on 06.11.2016 and secured 288 marks with 35th rank. The petitioner was directed to appear for certificate verification on 20.03.2017. After attending Certificate Verification, the petitioner appeared for counselling on 17.07.2017 and opted for Tamil Nadu Ministerial Service in the Registration Department. The petitioner was provisionally selected for the said post. However, the respondent has withheld the petitioner's application, since the



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petitioner had faced criminal case and later he was acquitted. The petitioner has received a memo dated 18.04.2018 stating that the petitioner has not mentioned about the registration of a criminal case against him but has informed only during the certificate verification. Thereafter, the petitioner was directed to submit explanation within 15 days. The petitioner has submitted a detailed explanation by stating a criminal case in Crime No.268 of 2012 dated 14.12.2012 was registered for offences under Sections 452, 294(b), 323, 506(i) I.P.C against the petitioner, his mother, brother and sister and the said complaint was preferred by the petitioner's neighbour namely, Murugan alleging that on 12.12.2012 at about 8.00 p.m. the petitioner's family trespassed into the said Murugan house and assaulted his wife and criminally intimidated due to some quarrel in taking protected drinking water from a public pipeline. The said case was taken as C.C.No.102 of 2013 on the file of learned Third Judicial Magistrate, Tirunelveli and it had ended in acquittal on 27.06.2014. Being unsatisfied with the petitioner's explanation, the respondent passed the impugned order, thereby, the petitioner's selection was cancelled and he was debarred from participating in the Government Selection process for a period of one year. Challenging the said impugned order, the present Writ Petition is filed.



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3. The respondent has filed a counter stating that the petitioner while applying the application through online, he had not mentioned about the said criminal case and stated “NO” in the respective column of the application. If the petitioner entered “YES” in the respective column, then another column would appear wherein, the petitioner would have an option to submit the details of the criminal case and also would have an option to indicate whether the petitioner was acquitted. But the petitioner has deliberately concealed the said fact and therefore, the petitioner's candidature was not considered and as per rule, the petitioner is not entitled to. Moreover, the respondent has debarred the petitioner from participating in the selection process for Government service for next one year. The learned counsel appearing for the respondent submitted that there were several judgments wherein, it has been stated if there is concealment of fact, then the candidature of the person cannot be considered for appointment.

4. Heard Mr.Aayiram K.Selvakumar, learned counsel for the petitioner and Mr.V.Panneer Selvam, learned Standing Counsel for the respondent.



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5. It is an admitted fact that the petitioner was acquitted in the criminal case as early as 2014 itself and the petitioner participated for the selection process for the year 2016 and submitted online application in the year 2016. The petitioner has entered “No” in the column stated whether any criminal case has been registered, which is incorrect. But the petitioner has disclosed the registration of criminal case as well as the acquittal at the time of Certificate Verification. This fact is accepted by the respondent as well. Therefore, the intention of the petitioner is not to conceal, otherwise if the petitioner is intended to conceal, then he would not have revealed the same at the time of Certificate Verification as well. Moreover, the allegation against the petitioner and his entire family is that they picked up fight with the neighbour regarding drawing water from public water pipe line and such a fight is common in India and this allegation is nothing to do with the security to the nation. Since the petitioner has disclosed at the time of certification verification, the petitioner case ought to be considered sympathetically. Moreover, the petitioner was debarred from participating in any recruitment process for next one year and the petitioner has undergone the said punishment and lost his opportunity from the year 2019 till today to seek appointment in the Government service. These factors shall be considered as a punishment to the petitioner.



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6. Therefore, the impugned order is quashed to the extent of cancellation of the petitioner's candidature. The respondent is directed to accept the candidature of the petitioner and submit the selected list to the appropriate appointing authority and the appointing authority shall issue appointment order. The respondent is directed to complete the said exercise within a period of four (4) weeks from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition is partly allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

02.02.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr



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To
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Tamil Nadu Public Service Commission,
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S.SRIMATHY, J.

Nsr

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