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W.P.No.4187 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2024

CORAM

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and**

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.4187 of 2024

and

W.M.P.No.4498 of 2024

R.Yuvaraja

... Petitioner

Vs.

1. The High Court of Judicature of Madras,
Rep. By the Registrar General,
High Court Campus, Chennai – 104.

2. The Tamil Nadu Public Service Commission,
Rep. By its Secretary,
VOC Nagar, Park Town,
Chennai – 9.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to reconsider the marks allotted to the petitioner by the Honourable Committee Members during the Interview/Viva voce re-calculate them to avoid any arithmetic errors, re-evaluate the records including computer entries publish the same afresh and consider his name for the post of Civil Judge under SC(G)(PSTM) category as per the marks scored by him in the Interview/Viva voce conducted on 29.01.2024 by considering the petitioners



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representation dated 14.02.2024.

For Petitioner : Mr.N.Manoharan

For R1 : Mr.B.Vijay

For R2 : Mr.R.Bharanidharan,
Standing Counsel for TNPSC

ORDER

(Order of the Court was made by **S.M.SUBRAMANIAM, J.**)

The Writ Petition has been filed directing the respondents to reconsider the marks allotted to the petitioner by the Honourable Committee Members during the Interview/Viva voce re-calculate them to avoid any arithmetic errors, re-evaluate the records including computer entries publish the same afresh and consider his name for the post of Civil Judge under SC(G)(PSTM) category as per the marks scored by him in the Interview/Viva voce conducted on 29.01.2024 by considering the petitioners representation dated 14.02.2024.

2. The petitioner participated in the process of selection for appointment to the post of Civil Judge, Junior Division pursuant to the notification 01.06.2023. The petitioner was successful both in the preliminary and the main written examinations and he was called for the interview/viva-voce.



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3. The learned counsel for the writ petitioner, Mr.N.Manoharan would submit that the writ petitioner has a reasonable apprehension whether the marks secured by him during the interview/viva-voce has not been carried out properly while calculating the total marks for selection. The writ petitioner was confident that he would have secured more marks in the interview/viva-voce. In order to remove the apprehension and doubt of the writ petitioner, we have directed the Tamil Nadu Public Service Commission to produce the statement of qualification -cum- marksheet for oral test. We have perused the said statement, which would reveal that the petitioner scored only 13 (Thirteen) marks. The said statement of qualification has been signed by the Hon'ble Chairman, Tamil Nadu Public Service Commission and the Committee Member.

4. That being the only ground raised in the present Writ Petition, there is no infirmity in respect of selection and the writ petitioner could not able to establish any acceptable ground for the purpose of interference of this Court.

5. In respect of the principles to be followed in the process of selection, the Hon'ble Supreme Court of India has held in the case of



Tajvir Singh Sodhi -vs- the State of Jammu and Kashmir reported in 2023

LiveLaw (SC) 253 as follows:-

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“12.1. Thus, the inexorable conclusion that can be drawn is that it is not within the domain of the Courts, exercising the power of judicial review, to enter into the merits of a selection process, a task which is the prerogative of and is within the expert domain of a Selection Committee, subject of course to a caveat that if there are proven allegations of malfeasance or violations of statutory rules, only in such cases of inherent arbitrariness, can the Courts intervene.

Thus, Courts while exercising the power of judicial review cannot step into the shoes of the Selection Committee or assume an appellate role to examine whether the marks awarded by the Selection Committee in the viva-voce are excessive and not corresponding



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to their performance in such test. The assessment and evaluation of the performance of candidates appearing before the Selection Committee/Interview Board should be best left to the members of the committee. In light of the position that a Court cannot sit in appeal against the decision taken pursuant to a reasonably sound selection process, the following grounds raised by the writ petitioners, which are based on an attack of subjective criteria employed by the selection board/interview panel in assessing the suitability of candidates, namely, (i) that the candidates who had done their post-graduation had been awarded 10 marks and in the viva-voce, such PG candidates had been granted either 18 marks or 20 marks out of 20. (ii) that although the writ petitioners had performed exceptionally well in the interview, the authorities had acted in an arbitrary



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manner while carrying out the selection process, would not hold any water.

13.1. It is therefore trite that candidates, having taken part in the selection process without any demur or protest, cannot challenge the same after having been declared unsuccessful. The candidates cannot approbate and reprobate at the same time. In other words, simply because the result of the selection process is not palatable to a candidate, he cannot allege that the process of interview was unfair or that there was some lacuna in the process. Therefore, we find that the writ petitioners in these cases, could not have questioned before a Court of law, the rationale behind recasting the selection criteria, as they willingly took part in the selection process even after the criteria had been so recast. Their candidature was not



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withdrawn in light of the amended criteria. A challenge was thrown against the same only after they had been declared unsuccessful in the selection process, at which stage, the challenge ought not to have been entertained in light of the principle of waiver and acquiescence.”

6. Accordingly, the Writ Petition stands dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

(S.M.S.,J.) (K.R.S.,J.)
26.02.2024

skr

Index : Yes

Speaking order

To

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