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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.23716 of 2024
and W.M.P.No.25950 of 2024

Gunasekar

... Petitioner

Vs.

The Secretary,

Tamil Nadu Public Service Commission,

Park Town,

Chennai – 600 003.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to appoint the petitioner in any of the posts under Level 18/16/13/12 in the recruited Combined Civil Services Examination-II (Interview/non-interview posts) Group II Services / Group IIA Services (Service Code-No.004) by modifying his appointment order in Memorandum No.271/PSD-A2/ 2022 dated 17.05.2024 (as Assistant in Revenue Department Level-10) consequent to the selection by direct recruitment based on his Overall Rank No.1078 and Communal (MBC-DC) Rank No.280 within a specified time



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For Petitioner : Ms.T.Aanathi

For Respondents : Mr.R.Bharanidharan
Standing Counsel

ORDER

This writ petition has been filed for issue of writ of mandamus directing the respondent to appoint the petitioner in any of the posts under Level 18/16/13/12 in the Combined Civil Services Examination-II (Interview/non-interview posts) Group II Services/Group II A Services by modifying the appointment order of the petitioner dated 17.05.2024 as Assistant in Revenue Department at Level 10.

2.The case of the petitioner is that he participated in the direct recruitment for Combined Civil Services Examination-II (Interview/non-interview posts) Group II Services/Group II A Services pursuant to the notification issued by TNPSC dated 23.02.2022. The petitioner secured 158.25 marks out of 300 marks.



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3.The further case of the petitioner is that the petitioner comes within the General Category/MBC (DC). The petitioner was called for the counselling on 17.05.2023 and the petitioner was appointed as Assistant in Revenue Department at Level-10.

4.The grievance of the petitioner is that he is entitled to be considered under the MBC (DC) quota at Level 12/13/16/18 and whereas, persons who have secured lower marks have been accommodated at those levels. It is under these circumstances, the present writ petition was filed before this Court.

5.The learned Standing Counsel for the respondent placed the position note for the consideration of this Court.

6.Heard Ms.T.Aananthi, learned counsel appearing on behalf of the petitioner and Mr.R.Bharanidharan, learned Standing Counsel appearing on behalf of the respondent.



7.The petitioner has given the list of six persons at Page No.97 of the typed set of papers who were selected in the non-interview posts. According to the petitioner, all these six persons have secured lesser marks than the petitioner and they all belong to MBC/DC community. However, they have been placed at higher level than the petitioner.

8.The learned Standing Counsel based on written instructions submitted that the six persons who have been pointed out by the petitioner belonged to the General Turn-PSTM Category. Therefore, the petitioner cannot compare himself with those candidates.

9.The petitioner has also specifically named two other persons at Page No.98 of the typed set of papers who also fall within the MBC/DC category and had secured lesser marks than the petitioner and who have been placed in a better level than the petitioner.

10.In answer to the above, the learned Standing Counsel submitted that those two posts which were identified by the petitioner specifically prescribed



technical qualifications which are not possessed by the petitioner. Therefore, the petitioner cannot seek for appointment in those posts in the absence of the minimum technical qualifications prescribed for those posts.

11.The learned Standing Counsel for the respondent further submitted that the various posts at various levels carries specific qualifications and in the absence of the petitioner possessing those qualifications, the petitioner cannot be considered for those posts at various levels.

12.The learned Standing Counsel also brought to the notice of this Court that for Levels 12 to 18, the cut off marks under the General Turn-General Category and MBC/DC General Category are much higher than the marks secured by the petitioner. For proper appreciation of this submission made by the learned Standing Counsel, the marks that were fixed and the ranks secured are tabulated hereunder:



GT G -CATEGORY

SNO	D.CODE	DEPT_NAME	RANK	MARK
1	1029	AUDIT INSPECTOR IN AUDIT WING OF HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS ADMINISTRATION DEPARTMENT	160	169.50
2	1014	SENIOR INSPECTOR IN CO OPERATIVE SOCIETIES DEPARTMENT	151	170.00
3	2201	ASSISTANT SECTION OFFICER IN TAMIL NADU PUBLIC SERVICE COMMISSION	126	170.75
4	1069	ASSISTANT INSPECTOR IN LOCAL FUND AUDIT DEPARTMENT	38	175.25
5	1072	ASSISTANT SECTION OFFICER IN SECRETARIAT OTHER THAN LAW AND FINANCE DEPARTMENT	30	176.00
6	1092	MUNICIPAL COMMISSIONER GRADE II IN MUNICIPAL ADMINISTRATION DEPARTMENT	7	187.25

MBC/DC G -CATEGORY

SNO	D.CODE	DEPT_NAME	RANK	MARK
1	1029	AUDIT INSPECTOR IN AUDIT WING OF HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS ADMINISTRATION DEPARTMENT	205	168.00
2	1014	SENIOR INSPECTOR IN CO OPERATIVE SOCIETIES DEPARTMENT	390	164.50
3	2201	ASSISTANT SECTION OFFICER IN TAMIL NADU PUBLIC SERVICE COMMISSION	362	165.00
4	1069	ASSISTANT INSPECTOR IN LOCAL FUND AUDIT DEPARTMENT	100	171.50
5	1072	ASSISTANT SECTION OFFICER IN SECRETARIAT OTHER THAN LAW AND FINANCE DEPARTMENT	54	173.75
6	1092	MUNICIPAL COMMISSIONER GRADE II IN MUNICIPAL ADMINISTRATION DEPARTMENT	35	175.50

13. In view of the above, the learned Standing Counsel submitted that the petitioner does not come within the zone of consideration for Levels 12 and 18 and therefore, the petitioner cannot seek for appointment in any of the posts at Levels 12-18.



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14.The learned Standing Counsel submitted that after the completion of the selection, the relevant posting will be given by nearly 27 Departments. After the posting orders are given by the concerned Departments, ultimately, those Departments will revert back to TNPSC and inform if there are any unfilled posts. Those unfilled posts will be taken to be backlog vacancies and it will be carried forward to the next recruitment, since the reserve list cannot be put to operation in this case considering the fact that it involves multiple posts for which persons belonging to multiple communities have participated in the selection.

15.The learned Standing Counsel also made it clear that after the 27 Departments reverts back to the TNPSC, the final selection list will be published by the TNPSC by providing all the particulars. If at all, the petitioner has any grievance after the final list is published, the petitioner can always point out if there are any illegalities. Till then, the petitioner cannot be granted the relief as sought for in this writ petition.



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16.The learned counsel for the petitioner submitted that the petitioner with very great difficulty was able to get the particulars from the Co-operative Department and it was seen that for nearly 17 posts, the particulars of the candidates is not available. Therefore, if ultimately, a large number of vacancies are available without being filled up, the eligible candidates can be considered to be accommodated at different levels provided that they possess the requisite qualifications fixed under the notification.

17.In reply to the above submission, the learned Standing Counsel submitted that TNPSC will not be in a position to know the unfilled posts till the 27 Departments revert back to TNPSC and inform regarding the unfilled posts. On such information, considering the fact that the selection involves multiple posts in which persons belonging to various communities participated, it will become impossible to conduct another counselling by calling all the candidates. This is in view of the fact that each and every candidate will be entitled for being called based on the marks secured by them and such counselling will end up into another fresh counselling. Therefore, in such



circumstances, those unfilled posts will only be taken as backlog vacancies and it will be carried forward to the next recruitment.

18. In the considered view of this Court, the relief as sought for by the petitioner in this writ petition cannot be granted. The petitioner has to necessarily wait for the publication of the final selection and appointment list by the respondent. On such publication, if the petitioner finds any illegality with respect to the placement of the candidates at various levels, it will be left open to the petitioner to question the same, if so advised. Except giving this clarity, no further orders can be passed in this writ petition.

19. This writ petition is disposed of in the above terms. No Costs. Consequently, connected miscellaneous petition is closed.

02.09.2024

Internet : Yes
Index : Yes
Speaking Order / Non Speaking Order
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N. ANAND VENKATESH, J.

ssr

To

The Secretary,
Tamil Nadu Public Service Commission,
Park Town,
Chennai – 600 003.

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