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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.26133 of 2024
and WMP No.28549 of 2024

A.Gerald Paul

... Petitioner

Vs.

Tamil Nadu Public Service Commission,
Rep. By its Secretary,
TNPSC Road, Park Town,
Chennai 600 001

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondent to permit the petitioner herein to participate in the oral test (interview) for the post of Assistant Engineer, Tamil Nadu Pollution Control Board and consider the petitioner's candidature as per the notification No.23 of 2023 dated 13.10.2023.

For Petitioner : Mr.C.Jagadish

For Respondent : Mrs.G.Hema
Standing Counsel



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ORDER

This writ petition has been filed for the issue of writ of Mandamus directing the respondent to permit the petitioner to participate in the oral interview for the post of Assistant Engineer, Tamil Nadu Pollution Control Board and to consider the candidature of the petitioner as per the notification dated 13.10.2023.

2. The case of the petitioner is that he has completed the Bachelor Degree in Civil Engineering during the year 2021. The petitioner thereafter joined the Master Degree in Environmental Engineering in Anna University during 2021 to 2022. The course was completed in April 2023 and the petitioner also wrote the examination and the results were also declared on 07.10.2023. The provisional certificate was issued to the petitioner on 27.11.2023.

3. The respondent issued a notification dated 13.10.2023, calling for applications for selection and appointment by direct recruitment to the posts included in the Combined Engineering Services Examination. The petitioner had applied to the post of Assistant Engineer, Tamil Nadu Pollution Control Board.



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4. The further case of the petitioner is that the petitioner had fulfilled the educational qualifications prescribed under the notification. The petitioner was called for the written examination and the results were declared during May 2024 and the name of the petitioner was also shortlisted.

5. On 01.07.2024, the petitioner was directed to produce the original records for certificate verification. The petitioner uploaded the provisional certificate for the PG degree. The petitioner was thereafter called upon to appear in person. At that point of time, it was informed to the petitioner that the provisional certificate has been given only on 27.11.2023. This was beyond the date of the notification dated 13.10.2023.

6. The petitioner in order to substantiate the fact that the results were declared before the date of notification, got a certificate from the Controller of Examination, Anna University to the effect that the results were published on 07.10.2023 much before the issuance of the notification.



7. The grievance of the petitioner is that the petitioner was not permitted to participate in the oral interview on the ground that the date mentioned in the provisional certificate was beyond the date of notification. Aggrieved by the same, the present writ petition has been filed before this Court.

8. When the matter was taken up for hearing today, the learned Standing counsel appearing on behalf of the respondent produced the position note. The relevant portions in the position note are extracted hereunder:-

5. It is submitted that the following details of the petitioners as per claim in the online application are furnished below :-

Educational qualification	A.Gerald Paul	D.Hebron
SSLC	21.05.2015	23.05.2014
HSC	12.05.2017	17.05.2016
B.E.Civil	26.08.2021	28.10.2020
M.E Environmental Engineering	08.09.2023 (Certificate No.452152102 (2 nd semester marksheet)	13.10.2023 (Certificate No.472154111) (4 th Semester marksheet)



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5. *It is also submitted that the date of notification was 13.10.2023, the candidate have claimed to have acquired P.G. Degree prior to the notification/on the date of notification against the column "Date of Publication of Result" in the online application in respect of PG Degree as stated above.*

In respect of A. Gerald Paul (Application no. 2323013201, Reg. No. 0101007061)

It is verified from the documents viz., Provisional certificate of PG; Consolidated Mark List (CML) has been issued on 29.02.2024 of PG and 2nd semester of Grade Sheet of PG issued on 12.03.2023 uploaded by the candidate Thiru.A.Gerald Paul it reveals that the result has declared through his provisional certificate which was issued of 27.11.2023 which is after the date of notification.

In the second semester Grade Sheet the date has been mentioned as 13.03.2023 which did not confirm his pass in the PG Degree.



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In respect of D.Hebron (Application no. 2323015385, Reg. No. 0101002133)

It is verified from the documents viz., Provisional certificate of PG; and Grade sheet of 4 Semester of PG uploaded by the candidate Thiru.D.Hebron it is seen that 4th Semester mark list has been issued on 14.10.2023. Which is after the date of notification. Whereas in his. application against the column date of publication result in the online application it is been applied 13.10.2023.

6. In this connection it is submitted that the said two candidates have not been admitted to OT, Since they have not possessed the required educational qualification (PG Degree) as on 13.10.2023 i.e. on Notification date. Hence, the said two candidates have not been considered for the post of AE (Pollution Control Board) and their highest education qualification has been considered as UG-degree.



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7. Above said circumstance both of the candidates are not eligible to be considered for the post of Assistant Engineer in Tamil Nadu Pollution Control Board. Since they do not possess the required Educational Qualification as on the Date of notification i.e. 13.10.2023, since the candidates have erroneously furnished the details in their online applications therefore their claims cannot be entertained and their Writ Petition's may be dismissed.

9. Heard Mr.C.Jagadish, learned counsel for the petitioner and Mrs.G.Hema, learned Standing Counsel for respondent.

10. In the instant case, the petitioner has applied for the post of Assistant Engineer, Tamil Nadu Pollution Control Board. There is no dispute with regard to the fact that the petitioner possess the necessary educational qualification. The main dispute is with regard to the date on which the petitioner had completed the course.

11. As per the notification dated 13.10.2023, the results of examination



should have been declared on or before the date of notification. The provisional certificate that has been issued to the petitioner shows that the petitioner has completed the course in April 2023. The provisional certificate does not talk about the date on which results of the examination was declared. The provisional certificate has been issued on 27.11.2023. Therefore, that date has been taken as the date of completion of the examination by the respondent. Hence, the respondent has come to a conclusion that the date in the provisional certificate is beyond the date of the notification and consequently, the candidature of the petitioner was not considered for selection.

12. It is important to take note of the exact terminology that is used in the notification which binds both parties. The notification states that the results of examination should have been declared on or before the date of notification. The certificate issued by the Controller of Examination, Anna University shows that the result of the final Semester was published on 07.10.2023. This document cannot be completely disregarded since this material document alone points out as to when the results of the examination was declared. If a provisional certificate has been given thereafter, that does not dis-entitle a person's



candidature to be rejected on that ground. In other words, the date on which the provisional certificate is issued may not be material and what is material is to see as to when the results of the examination was declared. If the results have been declared before the date of notification, a person must be entitled to be considered for selection. This is irrespective of the fact that the provisional certificate was given thereafter and which bears a date beyond the date of notification.

13. The learned Standing counsel appearing on behalf of the respondent submitted that there was no genuineness on the part of the petitioner while submitting the application. The learned counsel submitted that the petitioner in the application has stated that the date of publication of result was on 08.09.2023. The petitioner has also mentioned the certificate number. When it is verified, it was found that the relevant certificate pertained to the 2nd Semester. In view of the same, the learned counsel submitted that the petitioner has intentionally given wrong particulars in the application only to write the examination and subsequently during certificate verification, such wrong details provided by the petitioner got exposed.



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14. In the considered view of this Court, as on the date when the application was submitted by the petitioner through on line mode on 17.10.2023, he was not in possession of the provisional certificate. Even though, the course was completed during April 2023 and the results of the final Semester was also published on 07.10.2023, there was no document available with the petitioner to submit at the time of making the application. Therefore, the petitioner had mentioned the particulars of the certificate that was available. This by itself will not dis-entitle the candidature of the petitioner to be considered since factually the course was completed during April 2023 and the results of the final semester examination was also published on 07.10.2023. This sufficiently satisfies the requirement under the notification. It is not as if the petitioner has mislead the respondent and participated and later, it was found that the petitioner did not even possess the necessary educational qualification. In such an event, obviously it involves moral turpitude which will dis-entitle the candidature of a person to be considered. Whereas, in the case in hand, the petitioner did posses the necessary educational qualification on the date on which he submitted the application since the results were declared on 07.10.2023 itself. Therefore, the



petitioner has not mislead the respondent with respect to his educational qualification.

15. In the light of the above discussion, this Court holds that the petitioner has fulfilled the necessary educational qualification and has also passed the examination much before the date of notification. There is no reason not to consider the candidature of the petitioner for the post of Assistant Engineer, Tamil Nadu Pollution Control Board and hence, the petitioner shall be called for the oral test. There shall be a further direction to the respondent to consider the candidature of the petitioner for selection and appointment, if he is otherwise qualified.

16. This writ petition is disposed of with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

05.09.2024

Internet : Yes
Index : Yes
Speaking Order / Non Speaking Order
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Note : Issue order copy on 06.09.2024.

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N. ANAND VENKATESH, J.

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To

Tamil Nadu Public Service Commission,
Rep. By its Secretary,
TNPSC Road, Park Town,
Chennai 600 001



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