



W.P.No. 31937 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2024

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.No. 31937 of 2017

C.Panneer Selvam

... Petitioner

Vs.

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

... Respondent

Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the relevant records relating the impugned order of the respondent commission in Memorandum No.6207/OTD-B2/2010 dated 26.09.2017 in rejecting to consider the petitioner within the reservation for persons studied in Tamil Medium for the interview posts included in the Combined Subordinate Services Examination-1 2009-2011, notified in Advertisement No.258 dated 30.12.2010, on considering the 232.50marks scored by the petitioner in the said examination in consonance with the cut-off marks for the Most Backward Class (General) Tamil Medium, to quash the same as arbitrary, improper, illegal against the rules and procedures of the respondent, thereby directing the respondent service commission to conduct oral test (interview) for the petitioner, by confirming the selection of the petitioner in the written examination, on considering his marks, under the reservation for persons studied in Tamil Medium, in the said examination, under



W.P.No. 31937 of 2017

the category of Most Backward class (General) Tamil Medium, in order to initiate further selection process and consequently to select and appoint the petitioner in an appropriate interview post in the said combined subordinate services examination-1 2009-2011, on merits with due seniority and all service benefits.

For Petitioner : Mr.M.Muthappan

For Respondent : M/s.G.Hema, Standing Counsel.

ORDER

The case of the petitioner is that the respondent Commission had issued notification No.258 dated 30.12.2010 for the Combined Subordinate Services Examination – I-2009-2011 (CSSE-I-2009-2011) Group II inviting application for the direct recruitment to fill 4335 vacancies in various posts including two types namely interview posts, where written marks and interview marks are considered for appointment and non-interview posts where only the written marks are considered for appointment. Thereafter, supplementary notification was published notifying additional vacancies, increasing the total vacancies to more than 7000 in both posts. Out of which, vacancies for interview post was nearly 3475. In the said notification the commission had introduced single window counselling system in the selection process. By this system the selected candidates according to their rank order were allowed to select the post of their choice from the available posts, then the candidates were recommended to be



W.P.No. 31937 of 2017

appointed to the post they have selected. On the other hand, if a candidate did not find any post of his choice he is removed from the selection process and other candidates are given opportunity according to the rank order. This system was introduced to avoid carry forward of non joining vacancies.

2. It is submitted that the petitioner passed SSLC and HSC examination during April 1993 and September 1995 respectively and completed UG degree in B.Com during October 2001 and PG degree M.Com in October 2007 and the petitioner belongs to Most Backward Class (MBC) community. The petitioner had completed his whole education in Tamil Medium. The petitioner applied and appeared for the Group II Written examination conducted on 30.07.2011 and results for the interview post were declared on 08.06.2012. Oral Test (interview) was conducted from 20.06.2012 to 23.07.2012. Interview marks along with written examination marks were declared on 01.08.2012. Thereafter, the results for non interview posts were declared on 20.11.2012 and counselling were conducted in phase wise on different dates for both the interview and non interview posts.

3. It is further submitted in the said examination the petitioner has scored 232.50 marks and called for 1st counselling in the non interview posts, thereafter



W.P.No. 31937 of 2017

the petitioner was selected and appointed as Assistant in the Office of the Superintendent of Police, Krishnagiri. In the meantime, communal and category wise cut off marks were declared. The cut off marks for MBC/DC (General) is 234.00 marks and MBC/DC (General) TM is 231 marks. On 16.10.2012, the respondent / Service Commission have published the Rank Order of the candidates and the rank order of the petitioner is 5421 and scored 232.50 marks, only from the rank order list, the petitioner was aware of the marks secured by him. It is ascertained that the PSTM candidates who have scored 232.50marks in the category of MBC were called for the oral test and have been selected and appointed in Group-II posts, many Tamil Medium candidates have been kept in with held list for want of evidence for having studied in Tamil Medium. In all the examinations certificate verification will be done to prepare the list of eligible candidate for the oral Test (interview). During certificate verification 1:2 or 1:5 ratio of candidates (based on the marks scored) will be called for scrutinising their original certificate. In the said examination this procedure was not followed during certificate verification. The respondent service commission have conducted three phases of counselling for the interview posts, the 3rd phase of counselling was held on 14.11.2012, the petitioner has secured more than the cut off marks and had not been called for the oral test in these three counselling.



W.P.No. 31937 of 2017

WEB COPY

4. The petitioner had sought for certain particulars for non selection and in reply it was stated that the petitioner was considered under MBC/DC (General) and not in the MBC/DC (General) TM and stated that the petitioner had not submitted any evidence along with the application for claiming PSTM reservation. The petitioner had brought to the knowledge of the respondent that he had submitted M.Com degree transfer certificate issued by the University of Madras along with the application, thereby the respondent failed to appreciate the evidence and failed to consider the petitioner within the PSTM quota.

5. Subsequently, the petitioner had filed writ petition in WP.No.9208 of 2013. This Court by an order dated 09.08.2016 had dismissed the writ petition. Challenging the dismissal order, the petitioner had preferred writ appeal in WA.No.229 of 2017. A Division Bench of this Court by an order dated 28.07.2017 allowed the writ appeal directing the respondent to “*consider the case of the appellant and take a decision in accordance with law, as to whether he may be posted in the interview post, if any vacancy arises due to non reporting of any persons selected or due to resignation. It is made clear that this order shall not be quoted as a precedent by others*”. Based on the said order, the petitioner had made representations dated 05.09.2017, 20.09.2017 and



W.P.No. 31937 of 2017

02.10.2017. The respondent Commission without considering the said order in proper perspective, had rejected the request vide order in memorandum No.6207/OTD-B2/2010 dated 26.09.2017, stating the same reason, as if the petitioner had not submitted the evidence for claiming the reservation under person studied in Tamil Medium along with the application and hence, the petitioner was considered only under the MBC/DC (General) and was not given the interview post. It is also further stated that in the RTI enquiry from the District Collectorate, Krishnagiri, it is stated that in Krishnagiri District alone there are three non-joining vacancies in the said examination. The respondent has not considered the case of the petitioner under PSTM reservation, even though the petitioner submitted the evidence for PSTM reservation along with his application. The respondent ought to have been called for the petitioner for certificate verification and oral test on merits by considering the marks secured by him. On the other hand appointments have been given to other selected candidates who have obtained same marks. Hence, the petitioner was constrained to file the present writ petition, challenging the impugned order dated 26.09.2017 passed by the respondent.

6. The respondent filed counter affidavit, wherein it is averred that the petitioner applied for appointment by direct recruitment to the posts included in



W.P.No. 31937 of 2017

CSSE-I, 2009-2011 and claimed reservation under MBC/DC (PSTM) category,

but he hasn't enclosed any evidence for support of his claim of PSTM. Based on MBC/DC claim the candidature of the petitioner was considered and the petitioner scored 232.50marks in the written examination and had not reached the zone of consideration for OT Post, however based on the marks of the petitioner in the written examination he was called for counselling under MBC/DC for non OT post. In the counselling, the petitioner opted for the post of Assistant in Police Department and now he is working as Assistant in Police Department. The prayer of the petitioner to call for oral test under MBC/DC could not be accepted, since the petitioner is not in possession of PSTM in the degree qualification. The counselling method is being followed by the Commission, the reserve list has not been drawn. The petitioner had not reached the zone of admission to oral test, when he was summoned for oral test and therefore it is not possible to select him under the oral test post.

7. It is further submitted that in identical circumstances this Court in WP.No.7855 of 2013 has held that *"I am unable to accept the contention of learned counsel for the petitioner that the non-enclosure of said (PSTM) certificate is only a procedural lapse and it would not take away the substantive right of petitioner to be consider for PSTM reservation and the said writ petition*



W.P.No. 31937 of 2017

is dismissed.” The Division Bench of this Court in ***Dr.M.Vennila and others v.***

Tamil Nadu Public Service Commission reported in ***(2006) 3 MLJ 376*** and

Dr.S.Bhuvameswar Karthik and another reported in ***2009 (1) MLJ 483*** has held

that *notification, instruction etc to candidates and information brochure have*

to be strictly followed and this court, in exercise of its jurisdiction under

Article 226 of the Constitution of India, cannot make any modification or

relaxation of such conditions. Hence, the learned counsel prays for dismissal of

the writ petition.

8. Heard the learned counsel for the petitioner and the learned standing counsel for the respondent and carefully perused the materials available on record.

9. The petitioner appeared for Group – II examination conducted on 30.07.2011 and he was considered for appointment as Assistant in the Office of the Superintendent of Police, Krishnagiri. The cut off marks prescribed for MBC/DC (General) is 234 marks and MBC/DC (General) PSTM is 231 marks. The petitioner had secured 232.50 marks, those candidates who secured 232.50 marks in the category for MBC were called for oral test under the category of PSTM have been selected and appointed in Group – II Post and many candidates



W.P.No. 31937 of 2017

have been kept under with held list for want of evidence for having studied in

WEB Tamil Medium.

10. Admittedly, the petitioner was considered under MBC/DC (General) and not under in MBC/DC (General) TM, the reason for not considering the petitioner stated by the respondent is that the petitioner had not submitted any evidence along with application for claiming PSTM reservation. It appears from records that except contending that he had submitted M.Com degree transfer certificate issued by the University of Madras along with the application, the petitioner could not satisfy the Court that he has submitted any proof to consider him within PSTM quota.

11. It appears in the notification dated 11.02.2011, the candidate who have applied to the said recruitment was specifically instructed to enclose evidence for PSTM claim in Para 3 (iii) General Information in Adv.No.258 as mandatory. The respondent in their counter contended that the petitioner has enclosed the document evidencing his educational qualification, Community Certificate and Conduct Certificate. He had studied the degree in Tamil Medium which is essential for preferential treatment and reservation under PSTM category. The petitioner without enclosing PSTM certificate along with his application is not entitled for any preferential reservation under PSTM category.



W.P.No. 31937 of 2017

WEB COP12. The learned standing counsel for the respondent has drawn the attention of this Court to the judgments rendered by the Division Bench of this Court in ***Dr.M.Vennila and others V. Tamil Nadu Public Service Commission*** reported in ***(2006) 3 MLJ 376*** and in ***Dr.S.Bhuvaneswar Karthik and another*** reported in ***2009 (1) MLJ 483*** wherein it was held that “*notification instructions etc., to the candidates have the force of law and the terms and conditions of instructions etc., to candidates and information brochure have to be strictly followed and this Court, in exercise of its jurisdiction under Article 226 of the Constitution of India, cannot make any modification or relaxation of such conditions*”.

13. In view of the factual position that the petitioner submitted his application form without enclosing PSTM certificate to seeks preference under PSTM category, he is not entitled to insist the respondent to consider him under PSTM category at the time of selection process.

14. In our considered view, this Court could not find any irregularity in the order of the respondent / Commission in Memorandum No.6207/OTD-B2/2010 dated 26.09.2017 in rejecting the request of the petitioner, and the petitioner



W.P.No. 31937 of 2017

failed to make out any case under law or in facts warranting interference of this

Court under Article 226 of the Constitution of India. As such, the writ petition is

liable to be dismissed.

15. Accordingly, this writ petition is dismissed.

16. There shall be no order as to costs.

19.02.2024

Index :Yes/No

Neutral Citation :Yes/No

tsh

To
The Secretary
Tamil Nadu Public Service Commission
Frazer Bridge Road,
Park Town, Chennai – 600 003.



WEB COPY



W.P.No. 31937 of 2017

BATTU DEVANAND, J.

tsh

W.P.No. 31937 of 2017

19.02.2024