



W.P.(MD)No.12571 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **13.06.2024**

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.12571 of 2024
and
W.M.P.(MD).No.11221 of 2024

P.Prince Ponraj

... Petitioner

Vs.

The Member Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road, V.O.C. Nagar,
Park Town, Chennai.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondent to appoint the petitioner in Group II-A (Non-Interview post) based on his merit and eligibility by permitting him for certificate verification and counselling, by considering his representation dated 20.05.2024.

For Petitioner : Mr.V.Karthick Raja

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

ORDER

By consent of both the parties, this Writ Petition is taken up for final disposal at the admission stage itself.



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2. Heard Mr.V.Karthick Raja, learned counsel appearing for the petitioner and Mr.V.Paneer Selvam, learned Standing Counsel appearing for the respondent.

3. This Writ Petition has been filed seeking direction to the respondent to appoint the petitioner in Group II- Services / Gruop-II A (Interview Posts / Non-Interview Posts) based on his merit and eligibility by permitting him for certificate verification and counselling, by considering his representation dated 20.05.2024.

4. The petitioner has applied to the post of Group-II A Services (Non-Interview Posts) under Ex-Serviceman quota. The petitioner learnt from the online information that his application has been rejected subsequently for various reasons as per the conditions stipulated in the Notification and the Commission's instructions to the applicants. However, the petitioner has not received any personal communication so far with regard to the rejection of his application. However, subsequent rejection as against the petitioner as he found from the website would state that the application of the candidate has been rejected on the ground that some of the documents have not been uploaded in the website portal properly. Hence, the petitioner was instructed to apply the



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Ex-Serviceman Certificate in a prescribed format. Apart from that, no other

requirement is stated to be defective. Consequent to that, the petitioner has stated that he has uploaded the Certificate in the format as how he has been given by the authorities concerned. Despite the same, his application has been rejected and the relevant details are available in the website for the petitioner's Register Number. However, the petitioner has not chosen to challenge the rejection order by placing his reliance on the order of the Hon'ble Supreme Court held in the case of ***Vashist Narayan Kumar Vs. The State of Bihar and Others in Civil Appeal No.1 of 2024***. The relevant portion in the said Judgment is extracted hereunder:

“25. On the peculiar facts of this case, considering the background in which the error occurred, we are inclined to set aside the cancellation. We are not impressed with the finding of the Division Bench that there was no prayer seeking quashment of the results declared over the web. A reading of the prayer clause in the writ petition indicates that the appellant did pray for a mandamus directing the respondents to consider the candidature treating his date of birth as 18.12.1997 and also sought for a direction for issuance of an appointment letter. A Writ Court



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has the power to mould the relief. Justice cannot be forsaken on the altar of technicalities.”

5. Even though the failure on the part of the petitioner cannot be the reason to reject the claim of the petitioner, he cannot claim any right in pursuant to the above observation that he has not obliged to challenge the order of rejection even if he came to know about the same. The relevant portion in the above said Judgment is extracted hereunder:

“19. In this case, the appellant has participated in the selection process and cleared all the stages successfully. The error in the application is trivial which did not play any part in the selection process. The State was not justified in making a mountain out of this molehill. Perhaps the rarefied atmosphere of the cybercafe, got the better of the appellant. He omitted to notice the error and even failed to avail the corrective mechanism offered. In the instant case, we cannot turn a Nelson’s eye to the ground realities that existed. In the order dated 22.11.2021 in C.A. No. 6983 of 2021 [Prince Jaibir Singh vs. Union of India & Ors.], this Court rightly observed that though technology is a great enabler, there is at the same time, a digital



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divide.

20. In one of the cases cited as a precedent in the counter affidavit, before the High Court, **Pankaj Paswan** vs. **State of Bihar Anr.,2015** SCC On Line Patna 8739, the State had taken a defence that many candidates applied in more than one place and hence there could be deliberate tweaking in the date 13 of birth to take advantage of the selection process in more than one district or region. It is very important to notice that there is no such plea taken in the present case. If any such device or trick had been adopted, the State would have easily detected the same and placed the same before the Court. The fact that the same has not been done shows that there was no trick or device resorted to by the appellant. It is a trivial error which appears to be a genuine and bona fide mistake. It will be unjust to penalise the appellant for the same.”

6. Applying the very same yardstick, the petitioner can also be permitted to participate in certificate verification and counselling.



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7. In view of the above, this Writ Petition is **disposed of** with a direction to the respondent to permit the petitioner for certificate verification and counselling. No costs. Consequently, the connected miscellaneous petition is closed.

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NCC:yes/no
Index:yes/no
Internet:yes/no
TSG



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R.N.MANJULA, J.

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