



W.P.(MD) No.17505 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.02.2024

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THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD)No.17505 of 2020

and

W.M.P.(MD)Nos.14655 & 14656 of 2020

M.Savitha Devi

... Petitioner

Vs.

1.The Commissioner,
Commissionerate of e-Goverance,
Department of Information Technology,
Government of Tamil Nadu,
Chengalvaraya Naicker Building,
Anna Salai, Chennai-600 002.

2.The Member Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road, Park Town,
V.O.C.Nagar, Chennai - 600 003.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the second respondent in connection with the impugned remarks of invalidation observed in the Result published for the petitioner's Register No. 250007167 vide his official website in proceedings No.Nil dated Nil and quash the same as illegal and arbitrary and consequently direct the second



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respondent to validate / evaluate paper - II (Descriptive) and publish marked obtained by the petitioner in paper-I, paper-II and paper-III and thereby consider her case for appointment to the post of Assistant System Engineer or Assistant System Analyst based on her marks secured in the Written Examination in the light of the order passed by the Hon'ble Division Bench in a similar case in W.A.No.1775 of 2017 dated 07.03.2019 within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.Na.Ga.Nataraj for R1

: Mr.J.Anandkumar for R2

ORDER

The petitioner herein appeared for written examination in response to Notification No.05/2019, dated 22.01.2019 issued by the respondent No.2 for filling up the post of Assistant System Engineer and Assistant System Analyst, by way of direct recruitment with Hall Ticket No.250007167. On 07.04.2019, the candidature of the petitioner was invalidated by the respondent Public Service Commission on the ground that the petitioner has used pencil in paper - II of the said written examination, contrary to the strict instructions



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issued by the Tamil Nadu Public Service Commission in the instructions relating to the said recruitment process. The petitioner had filed the present Writ Petition, contending that she has not used pencil and she has answered all the questions only by using Pen as required by the respondent Public Service Commission. However, the respondent has filed counter affidavit categorically contending that the petitioner has used the pencil in paper - III of the written examination.

2. In the light of the above, this Court by an order dated 15.02.2024, directed the respondent No.2, to produce answer script of the petitioner for perusal of this Court. In terms of the said order, the learned counsel for the respondent produced the answer script of the petitioner in a sealed cover before this Court. This Court after perusal of the paper - III of the answer script of the petitioner noticed that the petitioner used the pencil while answering question No.2 at page No.5 of the paper - III of the answer script and the said pencil writing was over written by pen again. From the perusal of the instructions issued by the Tamil Nadu Public Service Commission, it is evident that the petitioner shall not use pencil for any



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purpose and she should use only black or blue pen and carrying the pencil inside the examination hall, would invite invalidation and barring the petitioner from the entire selection process.

3. There is no dispute with regard to the instructions issued by the respondent Tamil Nadu Public Service Commission and also the fact that the petitioner has carried the pencil inside the examination hall. Therefore, invalidation of the candidature of the petitioner cannot be found fault. From the counter affidavit, it is also noticed that it is not only the petitioner but also 1657 candidates were declared ineligible for want of complying with the instructions issued by the respondent Tamil Nadu Public Service Commission. Though initially this Court felt that invalidation of the candidature of the petitioner on the simple ground of using a pencil may not be in the interest of justice, but, considering the order passed by the Hon'ble Apex Court relied upon by the learned counsel for the respondent in Civil Appeal No.6669 of 2019, dated 28.08.2019, this Court is of the considered view that this Court is not entitled to consider the matter on sympathetic grounds. The Hon'ble Apex Court in the said decision held as under:



"7. We have given our anxious consideration to the submissions made by the learned Senior Counsel for the Respondent. The Instructions issued by the Commission are mandatory, having the force of law and they have to be strictly complied with. Strict adherence to the terms and conditions of the Instructions is of paramount importance. The High Court in exercise of powers under Article 226 of the Constitution cannot modify/relax the Instructions issued by the Commission.

8. The High Court after summoning and perusing the answer sheet of the Respondent was convinced that there was infraction of the Instructions. However, the High Court granted the relief to the Respondent on a sympathetic consideration on humanitarian ground. The judgments cited by the learned Senior Counsel for the Respondent in *Taherakhatoon (D) By LRs v. Salambin Mohammad and Chandra Singh and Others v. State of Rajasthan and Another*³ in support of her arguments that we should not entertain this appeal in the absence of any substantial questions of law are not applicable to the facts of this case.

9. In spite of the finding that there was no adherence to the Instructions, the High Court granted the relief, ignoring the mandatory nature of the Instructions. It cannot be said *M. Vennila v. Tamil Nadu Public Service*



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Commission, (2006) 3 Mad. LJ 376 (1999) 2 SCC 635 (2003) 6 SCC 545 that such exercise of discretion should be affirmed by us, especially when such direction is in the teeth of the Instructions which are binding on the candidates taking the examinations."

4. In the light of the law laid down by the Hon'ble Apex Court and the undisputed factual situation, this Court has no other option, except to dismiss the Writ Petition as devoid of merits. This Writ Petition is accordingly dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes/No
Index : Yes/No
Internet : Yes
LS

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