

W.A.(MD).No.185 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.03.2024

CORAM:

THE HONOURABLE **MRS.JUSTICE V.BHAVANI SUBBAROYAN**
and
THE HONOURABLE **MR.JUSTICE K.K.RAMAKRISHNAN**

W.A.(MD).No.185 of 2017
and
C.M.P.(MD).No.1947 of 2017

K.Veeraperumal

... Appellant

Vs.

1.The Secretary,
Home Department,
Fort St. George,
Chennai -9.

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

3.The Controller of Examination,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
V.O.C.Nagar, Park Town,
Chennai 600 003.

4.S.Balamurugan

... Respondents



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Prayer: Writ Appal is filed under Clause 15 of Letters Patent Act, against the order passed by this Court in W.P.(MD).No.12194 of 2014, dated 06.01.2016.

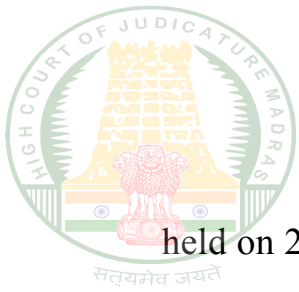
For Appellant : Mr.K.Ragatheesh Kumar
For R1 : Mr.A.K.Manikkam
Special Government Pleader
For R2 & R3 : Mr.V.Panneerselvam
For R4 : Mr.M.Suresh Kumar

J U D G M E N T

(Judgment of the Court was delivered by **V.BHAVANI SUBBAROYAN, J.**)

Challenging the order of the learned single Judge passed in W.P. (MD).No.12194 of 2014, dated 06.01.2016, the present writ appeal has been filed by the writ petitioner.

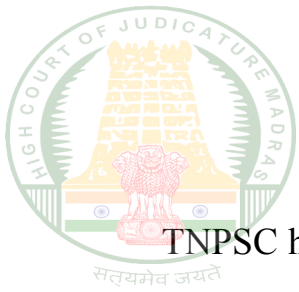
2. According to the appellant/writ petitioner, the Tamil Nadu Public Service Commission issued a Notification dated 06.03.2013, inviting applications for direct recruitment to the post of Assistant Public Prosecutor-Grade - II under the Tamil Nadu General Service for the year 2011 - 2012 to fill up 88 vacancies. The writ petitioner has applied for the post of Assistant Public Prosecutor-Grade II and thereafter, he appeared for the written examination



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held on 27.04.2013 and 28.04.2013. The second respondent has published a list

of candidates for the certificate verification on or before 17.07.2014, without publishing the marks obtained by them. Further, contrary to selection criteria of 1:2 ratio as mentioned in TNPSC's instruction in Clause 21(b), the second respondent has again published another list of 128 candidates at the ratio of 1:2 for 88 vacancies. Hence, he has filed a writ petition seeking direction to the second respondent to revise the selection list to call for 186 candidates for interview from the candidates who have come out successful in the written examination for the post of Assistant Public Prosecutor Grade II for the year 2011-2012 in the ratio of 1:2 for the 88 vacancies notified pursuant to the Notification No.4 of 2013, dated 06.03.2013 as per Clause 21(b) of instructions to the candidates published by the commission and consequently hold a selection and make appointments to the eligible candidates within a time frame. The learned single Judge of this Court dismissed the writ petition by holding that such contention of the petitioners, in my view, cannot be sustained, inasmuch as out of 2470 candidates appeared for the written examination, 1654 candidates secured less marks than the qualifying marks and 151 candidates were partially absent and 487 candidates' papers have been invalidated and 8 candidates were rejected for not sending the certificates before the last date prescribed. Thus, by taking note of such ineligibility of the candidates, the



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TNPSC have rightly called for only 128 candidates for the interview, hence, the

above said contention of the petitioners cannot stand to legal scrutiny.

Challenging the same, the present writ appeal has been filed by the writ petitioners.

3. The learned counsel appearing for the appellant/writ petitioner would submit that the appellant has secured 52 marks in first valuation and 29 and 11 in second and third valuation in respect of Law paper -1. According to the said report 29 and 11 are termed as a closest and taken up for consideration for arriving the marks with regard to the first paper, whereas the petitioner secured 52 marks in another valuation. If the same yardstick is followed, the second respondent ought to have taken marks obtained in first valuation (55) and third valuation (31) in respect of third paper and ought to have calculated the marks. Whereas, second valuation (16) and third valuation (31) were taken for calculating the marks. However, the learned single Judge without considering the contentions raised on behalf of the appellant, merely relying on the committee report dismissed the writ petition. The learned single Judge ought to have get the assistance/opinion of the experts in resolving the dispute which was questioned in the writ petition. Hence, the order of the learned single Judge is liable to be set aside.



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WEB COPY 4. The learned Special Government Pleader appearing for the first respondent would submit that the Tamil Nadu Public Service Commission has fixed the minimum qualifying marks in Part A (Written Test) for admission to the oral test as stated below:

Communal Category	Minimum Qualifying Marks
Scs, SCAs & ST	140 in the aggregate
MBC/DC, BC (OBCM) & BCM	160 in the aggregate
Others	180 in the aggregate

Apart from that, they have also fixed the minimum qualifying marks at 18 for the oral test (interview). Out of 2470 candidates, 1654 candidates secured marks below than the qualifying marks and 151 candidates were particularly absent and secured marks below the qualifying marks and 487 candidates whose papers have been invalidated secured below the qualifying marks. Hence, the total number of candidates eligible for certificate verification was only 137 candidates and among these 137 candidates, 8 of them were rejected for not sending the certificate before the last date prescribed and thus, only 128 candidates alone were called for the oral test. Further, as per the Notification No.4 published by the TNPSC, the candidates belonging to MBC/DNC/BC and OBC (M) and BCM categories will have to obtain 160



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marks in aggregate to qualify for the next level. But the writ petitioner has obtained below the cut-off marks fixed by the TNPSC. Therefore, he was not selected and the learned single Judge of this Court rightly dismissed the writ petition. Hence, he prayed for dismissal of the appeal.

5. Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondents and perused the materials available on record.

6. The petitioner has participated in the written examination held on 27.04.2013 and 28.04.2013 conducted by the TNPSC for the post of Assistant Public Prosecutor Grade II. The TNPSC has fixed the minimum qualifying marks in the written examination for admission to the oral examination (for SCs, SCAs & ST – 140 marks in aggregate, for MBC/DC, BC (OBCM) & BCM – 160 marks in aggregate and for others – 180 marks in aggregate). Further, TNPSC also fixed the minimum qualifying marks at 18 for oral test (interview). As per the Notification, the candidates belonging to MBC/DNC/BC and OBC (M) and BCM categories will have to obtain 160 marks in aggregate to qualify for the next level. Though the petitioner belongs to such category, he was admittedly obtained below the cut-off marks fixed by the TNPSC. The



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learned single Judge was of the view that as per the selection criteria of 1:2

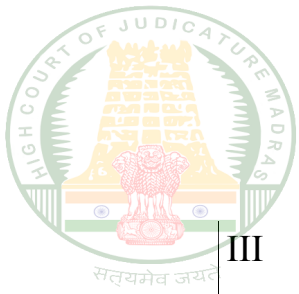
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ratio as mentioned in the TNPSC's instruction in Clause 21(b), they have rightly called for only 128 candidates for the interview, instead of 176 candidates, to fill up 88 vacancies of Assistant Public Prosecutor Grade II and dismissed the writ petition.

7. The learned counsel for the appellant seeks to produce the mark sheets and send them for re-evaluation. At this juncture, the third valuation is not acceptable as the examinations were held very long back and now the appellant cannot seek for interference by this Court.

8. The marks obtained by the appellant in all the three valuations is as follows:

Law Paper	1 st Valuation	2 nd Valuation	3 rd Valuation	Two nearest marks	Avg. marks
I	52	29	11	Val.II & Val.III (29+11)	40/2=20.0
II	35	54	15	Val.I & Val.II (35 +54)	89/2=44.5



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III	55	16	31	Val.II & Val.III (16 +31)	47/2=23.5
IV	40	48	Not subjected to 3 rd valuation	Val.I & Val.II (40 + 48)	88/2 – 44.0
				Total marks	132 marks

9. The Committee Report of Mr.J.Ramalingam, former Member of TNPSC is as follows:

“Dated 10.11.1994

I am of the view that for taking of tabulation, the two valuations which are the closest should be taken for arriving at the average marks and when the marks are equally equidistant from each, then the highest of the two equidistant marks should be taken for tabulation, as suggested by the C.E. Adopting this method is a scientific one because when a candidate is awarded two closest marks by two examiners, then these two marks would be the real marks and in that event we can very well ignore the third, which is not a fair valuation because the majority of the examiners have awarded the closest marks.”

10. The Hon’ble Apex Court in the case of **Basavaiah (DR) vs. Dr.H.L.Ramesh and others** reported in **2010 (8) SCC 372**, held that in the



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academic matters, the Courts have a very limited role particularly when no

WEB *mala fides* have been alleged against the experts constituting the Selection Committee. It would normally be prudent, wholesome and safe for the Courts to leave the decisions to the academicians and experts. As a matter of principle, the Courts should never make an endeavour to sit in appeal over the decisions of the experts. The Courts must realise and appreciate its constraints and limitations in academic matters.

11. In view of the above, the claim of the appellant/writ petitioner cannot be entertained by this Court and the writ appeal fails and the order of the learned single Judge is confirmed.

12. In the result, this Writ Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

[V.B.S.,J.] & [K.K.R.K.,J.]
18.03.2024

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

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