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W.P.No.15362 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2025

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.15362 of 2020
and
W.M.P.Nos.19215 and 19218 of 2020

S.Shaik Hussain

...Petitioner

Vs

The Secretary,
Tamil Nadu Public Service Commission,
Park Town,
V.O.C.Nagar,
Chennai – 600 003.

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent to consider the case of the petitioner for selection by permitting the petitioner to publish the results of the petitioner of the examination conducted by the respondent on 07.04.2019 for the post of Assistant System Engineer/Assistant System Analyst and to participate in the certificate verification and consider the case of the petitioner for inclusion in the select list on the basis of his marks obtained in the examination held on 07.04.2019.

For Petitioner : Mr.M.N.Kathir

For Respondent : Mr.I.Abrar Md Abdullah,
Standing Counsel



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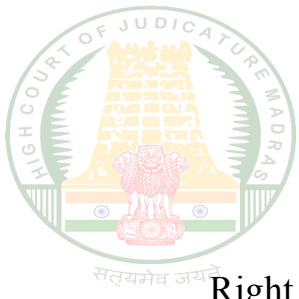
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ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Standing Counsel appearing for the respondent and perused the materials available on record, apart from the pleadings of the parties.

2. The petitioner herein appeared for written examination in response to Notification No.05/2019, dated 22.01.2019 issued by the respondent for filling up the post of Assistant System Engineer and Assistant System Analyst, by way of direct recruitment with Hall Ticket No.170006253. On 30.09.2020, the candidature of the petitioner was invalidated by the respondent Public Service Commission on the ground that the petitioner has used Blue and Black Colour ink pen in paper - III of the said written examination contrary to the strict instructions issued by the Tamil Nadu Public Service Commission in the instructions relating to the said recruitment process.

3. The learned counsel for the petitioner contended that though he had submitted an application on 04.10.2020 to the respondent under the



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Right to Information Act to disclose the exact reason for invalidation of his candidature in the examination, the respondent had not responded. However, in response to the e-mail sent by the petitioner on 18.10.2020 to the respondent, reply was given stating that the reason will be furnished only after the finalization of the selection.

4. However, the respondent has filed counter affidavit categorically contending that the petitioner has used the Blue and Black Colour ink pen in the answer script of paper - III in such a way to reveal his identity and thereby violated Para 22(II) (1) of the Commission's Instructions, which reads as follows:-

“ Usage of ink other than Blue or Black (Fountain pen or Ball pen or Gel ink). Applicant should use only any one of the two colours. If the applicant uses blue ink, he/she should use the same blue ink in the entire answer book for all purposes including answering, drawing, underlining, highlighting etc. Likewise if the applicant uses black ink, he/she should use the same black ink in the entire answer book for all purposes. He should not use both blue and black ink in an answer paper. For this purpose applicants should keep sufficient number of



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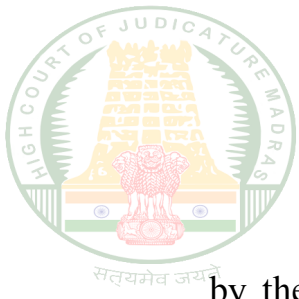
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additional pens of same type pens with same colour ink and same shade.”

Thus, his answer script has been invalidated.

5. On a perusal of the instructions issued by the Tamil Nadu Public Service Commission, it is evident that the petitioner should not use Blue and Black Colour ink pen for any purpose and he should either use black or blue pen. Therefore, using the Blue and Black Colour ink pen in the answer script of paper - III would invite invalidation and barring the petitioner from the entire selection process.

6. 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 used Blue and Black Colour ink pen in the answer script of paper - III. Therefore, invalidation of the candidature of the petitioner cannot be found fault. Though initially this Court felt that invalidation of the candidature of the petitioner on the simple ground of using Blue and Black Colour ink pen may not be in the interest of justice, but, considering the order passed by the Hon'ble Apex Court relied upon



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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 LR's v. Salambin Mohammad and Chandra Singh and Others v. State of Rajasthan and Another³ in support of her arguments that we should not entertain this appeal in the absence of any



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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 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."

In the light of the aforesaid position of law and the undisputed factual situation, this Court has no other option, except to dismiss the Writ Petition as devoid of merits.

7. Accordingly, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

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Index: Yes/No
Speaking order/Non-speaking order
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The Secretary,
Tamil Nadu Public Service Commission,
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V.BHAVANI SUBBAROYAN,J.

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