



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 12.06.2024

Pronounced on : 06.01.2025

CORAM :

JUSTICE N.SESHASAYEE
and
JUSTICE L.VICTORIA GOWRI

W.A(MD)Nos.674 and 839 of 2019
and
C.M.P(MD)Nos.5878 and 7126 of 2019

In W.A(MD)No.674 of 2019:-

M.Sundaramahalingam

...Appellant/Respondent

Vs.

Tamil Nadu Public Service Commission,
Rep. By its Secretary,
Park Town, VOC Nagar,
Chennai – 600 003.

...Respondent/Respondent

In W.A(MD)No.839 of 2019:-

Tamil Nadu Public Service Commission,
Rep. By its Secretary,
Park Town, VOC Nagar,
Chennai – 600 003.

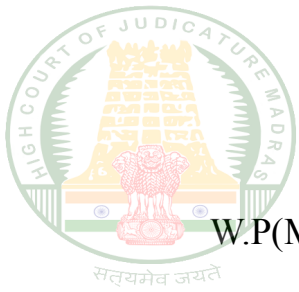
...Appellant/Respondent

Vs.

M.Sundaramahalingam

..Respondent/Petitioner

COMMON PRAYER: Writ Appeals are filed under Clause 15 of Letter Patent as against the order passed by this Court dated 09.05.2019 in



W.P(MD)No.8213 of 2019

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In W.A(MD)No.674 of 2019:

For Appellant : Mr.Ajmalkhan

Senior Counsel

For Respondent : Mr.J.Anandkumar

Standing Counsel

In W.A(MD)No.839 of 2019:

For Appellant : Mr.J.Anandkumar

For Respondent : Mr.Karthick

for Lajapathi Roy Associates

COMMON JUDGMENT

N.SESHASAYEE, J.

and

L.VICTORIA GOWRI, J.

The Writ Appeal in W.A(MD)No.674 of 2019 has arisen in a very unfortunate situation when the appellant herein lost an opportunity to participate in the interview for the post of the Assistant Director of Horticulture owing to an inadvertent error in entering his date of birth in the application form called for by the Tamil Nadu Public Service Commission (hereinafter referred to as 'TNPSC') vide its Notification dated 25.10.2018.

2. TNPSC, on its part, has filed W.A(MD)No.839 of 2019 challenging the entire order of the learned single Judge dated 09.05.2019



in W.P(MD)No.8213 of 2019.

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3. For the sake of convenience, the parties are referred to by their rank in the Writ Petition.

4. The relevant facts may be briefly stated:

a) As outlined earlier, on 25.10.2018, TNPSC issued a notification inviting the applications from eligible candidates for the post of Horticultural Officer and also the Assistant Director of Horticulture. The application form has to be uploaded online and the selection process involves a written examination followed by certificate verification and then an interview.

b) The writ petitioner claims that he was eligible for both the posts and accordingly, he made his online application. In terms of the procedure, he could apply for both the posts in a single application. While filling up the online application, the writ petitioner had given his date of birth as 15.11.1992, whereas his actual date of birth was 15.03.1992. He sat for the written examination and scored adequate marks to be considered for the next stage.



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c) The next stage was certificate verification. During the certificate verification, it was discovered that there is an apparent incongruence between the date of birth as stated in the application and the one that figures in the certificates of the writ petitioner. Wasting no time, TNPSC rejected the candidature of the writ petitioner.

d) This came to be challenged by the writ petitioner in W.P(MD)No.8213 of 2019. The learned single Judge vide order dated 09.05.2019, partly allowed the petition, but, dismissed the other part. To explain it, so far as the application for the post of Assistant Director of Horticulture is concerned, the learned single Judge dismissed it, whereas the post of Horticultural Officer is concerned, the learned single Judge allowed it.

e) The line of reasoning of the learned single Judge was that at the time when he disposed of the Writ Petition, interview for the post of Assistant Director of Horticulture had already been completed, whereas for the post of Horticultural Officer, it was yet to be completed. But, what is significant here is the decision of the



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learned single Judge was taken for the only error the writ petitioner had committed in the one consolidated application that he had made for both the posts.

f) Pursuant to the order of the learned single Judge, the writ petitioner was called for an interview for the post of Horticultural Officer, but, his result has been withheld.

5. It is in this setting, W.A(MD)No.674 of 2019 was filed by the writ petitioner challenging that portion of the order of the learned single Judge, which disallowed him for consideration for the post of Assistant Director of Horticulture. When the matter was moved before this Court, this Court vide an interim order in C.M.P(MD)No.5878 of 2019 dated 08.07.2019, had directed TNPSC to keep one seat vacant. It is now brought to the notice of this Court that even on 09.05.2019, the selection procedure was complete and the final list of selected candidates was published.

6. Mr.Anandkumar, learned counsel for TNPSC submitted that the writ petitioner was applying for no ordinary post, but, for the posts of Horticultural Officer and Assistant Director of Horticulture and he could



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not plead in the 21st century India that he is not smart enough to understand the implications of the wrong entry.

7. The learned counsel for TNPSC further submitted that the notification has been made and the writ petitioner had also given a declaration as required in the notification that all the entries made therein are correct. He ought to have taken care to fill up his application. If it were to be considered as trivial, then, it provides that all those who breach the requirements of notification will gain an unmerited opportunity. This is a situation, which the writ petitioner had invited upon himself and he must settle for the slice of cake for which he has invested his time and effort.

8. He also relied on the following authorities:

- i) The Judgment of the Madras High Court in **P.Prabu Vs. Tamil Nadu Public Service Commission, Chennai** [*W.A.No.4318 of 2019*];
- ii) The Judgment of the Hon'ble Supreme Court in **the State of Tamil Nadu and Others Vs. G.Hemalathaa and Another** [*Civil Appeal No. 6669 of 2019*];
- iii) The Judgment of this Court in **E.Thamizhannai Vs. The Tamilnadu**



Public Service Commission, Chennai and another in W.P.No.14635 of
2020 dated 12.10.2020

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9. Per contra, Mr.Ajmal Khan, learned Senior Counsel appearing for the appellant in W.A(MD)No.674 of 2019/writ petitioner submitted that the error in the entries to be made in an application can be of two varieties, those which are material and those which are trivial. He would further submit that as far as the case of the writ petitioner is concerned, the error in entering his date of birth can be considered as trivial since irrespective of the error in entering his date of birth, he still was eligible to participate in the selection process.

10. Mr.Ajmal Khan, learned Senior Counsel further submitted that in its selection published on 09.05.2019 a rider was added by TNPSC to the effect that the selection was subject to the outcome of the writ petition namely, one filed by the appellant in W.A(MD)No.674 of 2019.

11. Placing reliance on the authority of the Hon'ble Supreme Court in **Vashist Narayan Kumar Vs. the State of Bihar and others** [Civil Appeal No.1 of 2014], the learned Senior Counsel submitted that the Hon'ble Supreme Court has considered the view of the authorities on the



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point and has held that the error of trivial variety might not be allowed to upset the candidate's prospects of participating in a selection process and underscored that technology, as an enabler, should not lead to digital divide.

12. Responding the same, the learned counsel appearing for TNPSC submitted that in the above mentioned case, selection was opposed to a Police Constable from remote place and he has utilized the service of cybercafe for making his application. So far as the present case of the appellant in W.A(MD)No.674 of 2019 is concerned, it stands on a different footing. The appellant is admittedly the man of letters and he ought to have taken note of what he is doing.

Analysis:-

13. Though the submission of the learned Senior Counsel appearing for the appellant, relying upon the case of ***Vashist Narayan Kumar***, seems reasonable that the inadvertent error in filling up of the date of birth should not be taken to the disadvantage of the appellant by the respondent Commission penalizing him for the said insignificant error. A careful perusal of the counter filed by the Tamil Nadu Public Service Commission would reveal that, the selection for the post of



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Assistant Director of Horticulture was finalized on 09.05.2019. Out of 74 vacancies, 72 vacancies have already been filled and two vacancies in the category of GT (G) DAP - LV and GT (W) DAP - HI, HH, have been carried forward to the next recruitment, due to the paucity of candidates. That apart, the selection list was already forwarded to the Head of the Department concerned vide Commission's letter dated 13.05.2019. However, this Court in this Writ Appeal, passed an interim order, directing the Commission to keep one post of Assistant Director of Horticulture in scheduled caste category vacant, pending further orders, if all the posts in the said category was not filled up. But unfortunately, all the vacancies in the category of Assistant Director of Horticulture, were already filled up when the aforesaid interim order was passed by this Court, more particularly before the interim order dated 08.07.2019. In view of the completion of the selection process for the post of Assistant Director of Horticulture, as early as on 13.05.2019, even before this Writ Appeal came to be filed, the appellant's appeal do not have any leg to stand. But in compliance to the order passed by the learned Single Judge in W.P.(MD)No.8213 of 2019 on 09.05.2019, directing the Commission to permit the appellant to attend the interview for the post of Horticulture, which was scheduled on 10.05.2019, the appellant was permitted to attend the oral test for the post of Horticulture Officer, as per



the order of the learned Single Judge and the result had been withheld.

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14. In view of the same, directing the respondent Commission to publish the result of the appellant as far as the post of Horticulture Officer is concerned, the Writ Appeals are disposed of. There shall be no order as to costs. Consequently, miscellaneous petitions are closed.

(N.S.S., J.) (L.V.G., J.)
06.01.2025

Index : Yes / No
Neutral Citation : Yes / No
CM/Mrn

To
Secretary,
Tamil Nadu Public Service Commission,
Park Town, VOC Nagar,
Chennai – 600 003



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N.SESHASAYEE, J.
and
L.VICTORIA GOWRI, J.

CM/Mrn

Pre-delivery Judgment made in
W.A(MD)Nos.674 and 830 of 2019
and C.M.P(MD)Nos.5878 and 7126 of 2019

06.01.2025