

(2014) 06 MAD CK 0161

In the Madras High Court

Case No : Writ Petition Nos. 14410, 14411 and 8069 of 2014 and M.P. No. 1 of 2014

A. Mathiarasi

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 27-06-2014

Acts Referred:

Citation : (2014) WritLR 852

Hon'ble Judges : S. Nagamuthu, J

Bench : Single Bench

Judgement

S. Nagamuthu, J.—Since common issues are involved, these writ petitions are heard together and are disposed of by this common order. The Tamil Nadu Public Service Commission issued advertisement No. 258 calling for applications for direct recruitment to the posts included in Combined Subordinate Services Examination-I (Examination/Service Code No. 004). There were as many as 37 posts included in the various departments. Clause 4(B) of the Prospectus speaks of the educational qualification. According to the same, the candidate must possess a degree of B.A. or B.Sc., or B.Com. of any University or institution recognized by the UGC or BOL of Annamalai University or B.B.A. of Madurai Kamaraj University or B.Litt. of Madras University or B.B.M. or B.Litt of Barathiar University. As per Clause 19 of the table given under paragraph No. 4(B) of the Prospectus, for the post of Assistants in Registration, Highways, Prison, Police, Transport, Medical and Rural Health Services and in the Divisions of Commercial Taxes Department, the qualification required is any degree. Clause 22 of the said Prospectus states that the qualification for the post of Assistant in Finance Department, in the Tamil Nadu Secretariat, is a Bachelor's degree in Commerce or Economics or Statistics of any University or Institution recognized by the University Grants Commission.

2. The petitioners are graduates in various subjects other than Commerce or Economics or Statistics. Therefore, they are not eligible for being considered as

against the post of Assistant in Finance Department, Tamil Nadu Secretariat Service. But they are eligible for being considered for the post of Assistant in the Department of Registration, Highways, Prison, Police, Transport, Medical and Rural Health Services and in the Divisions of Commercial Taxes Department.

3. The petitioners participated in the written examination, which consists of single paper in General Knowledge, General Tamil and General English and is of three hours duration. Each paper contains 150 marks and total mark is 300. According to the Prospectus, the selection shall be made based on the marks secured in the written examination and in the oral test. 40 marks were earmarked for oral test. The minimum qualifying mark for selection is 102 marks in the written cum oral test and 90 marks in the written test only.

4. The petitioners herein participated in the written examination and secured the written marks as detailed below. Their community and their ranks are also given below (vide counter paragraph No. 2)

5. According to the petitioners, four other persons by names K. Rama, A. Kavitha, R. Suresh and M. Karuppiah, who had secured lesser marks than petitioners were also called for Certificate Verification, for non-interview posts and were selected, whereas, the petitioners, who have secured 229.5, 225 and 231 were not called for Certificate Verification and they were not selected. It is also stated by the petitioners that one candidate, who has secured 211.50 was selected as against the General Turn, for the post included in Clause 19 of the Prospectus. Thus, according to the petitioners, the non-selection of the petitioners is illegal and therefore, they are before this Court with these writ petitions.

6. In the counter filed by the Joint Secretary, Tamil Nadu Public Service Commission, Chennai, the above stand taken by the petitioners is factually admitted. In paragraph No. 5 of the counter, it is stated as follows:

"5. It is respectfully submitted that this was the first time that the process of counseling was introduced and due to large volume of candidates had been summoned for counseling, and due to absence of some candidates summoned for counseling and unwillingness expressed by of some candidates during counseling, the petitioners have been omitted from being taken which is purely a genuine mistake. Counseling system now in practice has been modified appropriately and such mistake will not occur now. The above petitioners as indicated will be accommodated in the next phase of counseling."

7. The learned Senior counsel appearing for the Tamil Nadu Public Service Commission Mr. R. Muthukumarasamy, would submit that these petitioners would be called for Certificate Verification and they will be selected and later appointed based on their marks because they have secured more marks than the cut off marks. The said statement is recorded.

8. In this case, in the original counter filed on 2.4.2014, the TNPSC has tried to

justify the non-selection of these petitioners. The stand then taken was that the cut off mark was differently fixed for the candidates who have opted to be appointed in Finance Department and the candidates, who opted to be appointed in the Departments as enumerated in clause 19 of the Prospectus. In other words, according to the stand taken by the TNPSC, for the posts of Assistants in Finance Department, the cut off mark was 229.5, whereas, for the posts included in clause 19 of the Prospectus, it was 231. It was also submitted in the counter that some of the candidates, who were called for Certificate Verification for the posts of Assistants in Finance Department, at the time of counseling, opted to go to public Departments and therefore, they were selected as against those posts though the cut off mark was higher.

9. The learned counsel for the petitioners Ms. Dhakshayani Reddy, however, pointed out from the records available, that one candidate, who had secured 211.50 has been selected as against the posts included in Clause 19. At that juncture, the TNPSC offered to file another affidavit. It is accordingly, today, the affidavit dated 26.6.2014 has been filed, wherein, as I have extracted herein above, in paragraph No. 5, the TNPSC has admitted the mistake committed by them. It is now the admitted case of the TNPSC itself that the candidates who have secured the cut off mark for the post of Assistants in Finance Department, ought not have been considered against the post included in clause 19, because, for clause 19, the cut off mark was higher than the cut of mark prescribed for Assistants in Finance Department.

10. From the above tacit admission made by the TNPSC, it is certain that many candidates like the petitioners ought to have been selected have not been selected, whereas, many candidates who ought not to have been selected have been unduly selected. This is not a mere procedural irregularity, but an illegality depriving the rights of the meritorious candidates.

11. It is not known to the Court as to how many candidates have been affected and how many candidates have been unduly selected and appointed. At this length of time, in my considered opinion, it is not possible to repair the loss or error committed by the TNPSC, fully. It is also not possible at this length of time to cancel the entire selection, so as to issue a direction to the TNPSC to hold a fresh verification session. Therefore, as has been admitted in paragraph No. 5 of the counter, since the petitioners, who have been illegally rejected are now assured selection and appointment, I do not want to probe further and I wish to confine the relief only to the petitioners in this matter. I am only hopeful that the TNPSC, which has got its own tradition, will avoid any such mistake in future, because, a single mistake committed by the TNPSC may result in huge loss and mental agony to many deserving candidates, who toil much to purchase books, prepare for the examination and write the examination. But for the affidavit today filed, conceding to the mistake committed by the TNPSC, this Court would have even gone to the extent of issuing a direction for a detailed probe, but I desist from doing so hoping that the TNPSC will not allow any such mistake to

occur in future. In the result, all the writ petitions are allowed. The Tamil Nadu Public Service Commission, as undertaken before this Court, shall call the petitioners soon for Certificate Verification, select them if they satisfy all the other requirements and appoint them as Assistants in any one of the Departments enumerated under Clause 19 of the Prospectus. The said exercise shall be completed within eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.