
(1993) 08 MAD CK 0073
In the Madras High Court
Case No : W.A. No's. 844 of 1993

R. Gnanasekar

APPELLANT

Vs

Tamil Nadu Public Service Commission

RESPONDENT

Date of Decision : 10-08-1993

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 320

Citation : (1993) 08 MAD CK 0073

Hon'ble Judges : K.A. Swami, C.J.;Somasundaram, J

Bench : Division Bench

Judgement

K.A. Swami, C.J.—These writ appeals are preferred against the Order dated 22nd June, 1993, passed by the learned single Judge in W. P. No. 2210 of 1993. The learned single Judge has dismissed the writ petitions, hence the petitioner has come up in appeals.

2. In W. P. No. 2210 of 1993, the petitioner sought for quashing the second sentence of para (iv) of the notification dated 15.6.1992 issued by the Tamil Nadu Public Service Commission. The petitioner also sought for a direction to the respondent to consider his candidature along with others for selection to Group I services in the State of Tamil Nadu. In W. P. No. 9810 of 1993 he sought for a writ in the nature of a mandamus directing the Tamil Nadu Public Service Commission to value the paper of "National Security" written by him in Tamil without prejudice to the merits and demerits of the case pleaded in W. P. No. 2210 of 1993.

3. The facts necessary for the purpose of deciding the contentions urged by the learned counsel for the appellant are as follows :

By the notification dated 27.6.1992 published in the gazette of the same date, the Tamil Nadu Public Service Commission called for the applications for conducting a competitive examination to fill up the vacancies in Class I service of the State. Accordingly, the petitioner filed an application and appeared for the

preliminary examination and passed the same. Thereafter, an application form was sent to him by the Public Service Commission for the main examination and he filled up the same. In that it was stated that one of the optional subjects, namely, "National Security" will have to be written in English only and as far as the other option subjects were concerned, it was open to the candidates to write them either in English or in Tamil. The petitioner chose the "National Security" paper, but wrote it in Tamil and not in English. Therefore the Public Service Commission has not valued that paper and has not considered the candidature of the petitioner for selection to the Class I service for which the main examination was conducted.

4. It is the case of the petitioner that in the notification dated 27.6.1992 it was not specifically mentioned that the "National Security" paper in the main examination will have to be answered only in English. As the Tamil Nadu Public Service Commission all of a sudden changed its decision and directed that "National Security" paper should be written only in English, prejudice was caused to the petitioner and thereby his right to seek employment through the competitive examination has been adversely affected inasmuch as he could not write the "National Security" paper in English.

5. The learned single Judge has held that the petitioner had sufficient notice of it and inspite of the fact that in the instructions to the candidates sent along with the application form it was specifically stated that one of the optional subjects, namely, "National Security" paper will have to be written in English, the petitioner chose to write it in Tamil only. Therefore, it is not possible to hold that any prejudice is caused to the petitioner.

6. Learned counsel for the appellant contends before us that under Art. 320 of the Constitution of India, Public Service Commission has no power to conduct the examination in English because the examination is intended for the benefit of the residents of the Tamil Nadu as the State language is Tamil only. It is also further contended that it amounts to discriminating the petitioner-appellant in the matter of public employment. We are not impressed by this contention. It is relevant to notice that under Art. 320(1) of the Constitution, it shall be the duty of the Union and the State Public Service Commission to conduct examinations for appointment to the services of the Union and the services of the State respectively. The words "to conduct examinations" are wide enough to take into their fold all the steps that are necessary to be taken to conduct the examination including prescription of the syllabus, the mode and the manner of examination and the language in which it has to be conducted. Otherwise, it will not be possible for the public service commission to discharge its constitutional obligation. It is an accepted and well-established principle of law that whenever a statute enjoins the public authority to do a certain thing, it is deemed to have granted or it is presumed that such public authority shall have all the powers which are necessary to discharge the duty enjoined upon it. It will be more so in the case of a constitutional functionary. Therefore, the State Public Service

Commission shall have all the powers that are necessary for the purpose of discharging its duty. Hence, we are of the view that the State Public Service Commission is fully authorised or empowered under the Constitution to decide the mode and manner of conducting the examination, prescribe the subjects for the examination and also prescribed as to whether a particular subject should be written in English or Tamil.

7. In the instant case, the Public Service Commission has given sufficient reasons as to why it has decided to prescribe that "National Security" paper should be written in English. In the counter affidavit it is stated thus :

" (1) Literature and studies in this subject are generally in English and in Foreign Languages.

(2) The examiners in the subject are not available in adequate numbers in Tamil Nadu.

(3) The Commission has necessarily to appoint professors from other states (who may not know Tamil) for getting papers and for evaluation so as to maintain the quality of the examination and the confidentiality of the examination process as also to maintain equity in the selection process as between candidates who take this subject and those who take other subjects.

(4) It has also been ascertained from Madras University that the medium of instruction for the subject Defence studies is only in English. For the above reasons, the Commission has taken a conscious policy decision that the question paper in the optional subject "National Security" will be set in English only and the candidates will answer the paper in English only and this decision was included in the Commission's notification dated 15.6.1992".

8. On the contrary, it is contended by the learned counsel for the petitioner-appellant that there are several books written in Tamil on the subject of "National Security" and there are several Professors who can also set and value the paper relating to "National Security" in Tamil. All that we can say in this regard is that it is the Public Service Commission which is the best Judge of the matter and it is not for the Court to say as to whether it should have given the option to the candidate to write the paper "National Security" in English or in Tamil.

9. It is also relevant to note that it was an optional subject. It was not a compulsory subject. It was open to the petitioner-appellant, if he were not in a position to write in English, to choose another subject. When the petitioner-appellant, inspite of the specific instructions contained in the application that the "National Security" paper should be written only in English, chose that paper, thereby he agreed to write it only in English. In spite of the aforesaid specific instruction to write the paper in English, he has written the "National Security" paper in Tamil. Therefore, he has to face the consequences. The paper which is written in Tamil contrary to the specific instructions of the Public Service Commission, cannot at all be treated as valid, as such, he cannot insist that the

Public Service Commission should be directed to value the paper which is written in Tamil. Whereas it ought to have been written in English.

10. There is no question of violation of Art. 14 or Art. 16 of the Constitution of India in a case where option is given to the examine to choose any one of the subjects and in the event he chooses "National Security" paper, he must write that paper only in English. The petitioner knowing full well that the "National Security" paper had to be written in English chose that paper. Therefore, he should have written it in English. Therefore, we are of the view that there is no merit in the case. Accordingly, the writ appeals are rejected.