

### **Case relating to non-enclosure of certificates:**

**Parties :** A. Nambivenkatesh Versus Tamil Nadu Public Service Commission, rep. by its Secretary, Chennai and Others

**Court :** High Court of Judicature at Madras

**Case No :** W.A. No. 215 of 2008

**Judges:** THE HONOURABLE MR. JUSTICE K. RAVIRAJA PANDIAN & THE HONOURABLE MR. JUSTICE P.P.S. JANARTHANA RAJA

**Appearing Advocates :** V. Selvaraj, for Appellant. Ms. Ezhilarasi, for Respondents.

**Date of Judgment :** 12-03-2008

**Head Note :-**

Service Law -

Cases Referred:

Dr. A. Rajapandian v. State of Tamil Nadu , (2007) 1 MLJ 820; [Paras. 3, 10]

Dr. M. Vennila v. Tamil Nadu Public Service Commission , (2006) 3 MLJ 376; [Para. 10]

Comparative

Citation: 2008 (4)

MLJ 500

**Judgment :-K. RAVIRAJA**

**PANDIAN, J.**

The appellant, aggrieved by the order of the learned single Judge dated 1.11.2007, made in a batch of writ petitions containing 11 cases, has filed this present appeal.

2. The appellant was the applicant for the post of Motor Vehicles Inspector Grade II before the Tamil Nadu Public Service Commission. He sent his application in the prescribed form, but he was not allowed to write the written examination. Hence, the appellant approached this Court by filing a writ petition contending that he fulfilled all the requirements as required in the Notification published in the newspaper on 18.4.2007 and has also annexed necessary testimonials as required under the Notification, hence, the action of the respondents in not allowing him to write the pre-qualifying examination is not correct. During the pendency of the writ petition, the appellant was allowed to write the examination with the rider that the result of the examination would be subject to the result of the writ petition. The application of the appellant was rejected on the ground that he did not enclose the experience certificate in driving the heavy transport vehicle prescribed for the post as announced in Paragraph 5-B(v) of the Commission's Notification dated 18.4.2007. The Notification which was advertised in a Tamil daily in Advertisement No. 107 by the Tamil Nadu Public Service Commission, required that the applicant must hold a driving licence authorising him to drive

light motor cycle, heavy goods vehicles and heavy passenger motor vehicles and the applicant must have experience in driving heavy transport vehicles for a period of not less than six months.

3. Before the learned single Judge it was contended that the appellant has furnished along with his application a certificate from T.V. Sundaram Iyengar & Sons Limited dated 11.7.2007 and Another certificate from Aruppukottai Sri Jayavilas Ltd., dated 19.3.2007. Those two certificates would comply with the requirements of Paragraph 5-B(v) of the Commission's Notification. The learned single Judge, in order to verify whether the certificates on which reliance has been placed by the appellant, would conform to the requirements of Paragraph 5-B(v) of the Notification, directed the counsel for the respondents to produce all the original records before the Court. On verification of the records, the learned Judge has recorded a finding to the effect that the certificates produced by the appellant did not meet the requirements of the above paragraph and after referring to the earlier Division Bench judgment of this Court in the case of *Dr. A. Rajapandian v. State of Tamil Nadu*, (2007) 1 MLJ 820 has rejected the writ petition by order dated 1.11.2007.

4. In this appeal, Mr. Selvaraj, learned counsel for the appellant/writ petitioner has reiterated the very same arguments which have been advanced before the learned single Judge to contend that the certificates issued by T.V. Sundaram Iyengar & Sons and Aruppukottai Sri Jayavilas Ltd would meet the requirements of the Commission and as a matter of fact these certificates have been cross verified by the respondents with the author of the certificates and the two companies have confirmed the issuance of such certificates.

5. When that being the factual position, the respondents as well as the learned single Judge are not correct in taking a decision that the appellant has not submitted the required certificates along with his application. He further contended that with reference to the requirements in Paragraph 5-B(v) which is to the effect that in the absence of any particular form prescribed by the respondents for furnishing the experience certificate, the certificates attached by the petitioner given by T.V.Sundaram Iyengar & Sons and Aruppukottai Sri Jayavilas Ltd., should be construed as certificates meeting the requirements prescribed under Paragraph 5-B(v) of the Notification.

6. On the other hand, learned counsel appearing for the Commission submitted that the general instructions to the candidates published by the respondent is to the effect that candidates should enclose a xerox copy of certificates duly attested by Group 'A' or Group 'B' officer. However, the original certificate in support of the claim made in the application should be produced at the time of attending the oral test, when called for. One set of xerox copy along with the copy of the photographs identical to the one pasted in the application should be handed over while attending the oral test, if called for. All the minute details of the requirements have been given in the instructions to the candidates. When the appellant has understood the other certificates to be furnished in a proper perspective and furnished those certificates, he cannot contend that, in the absence of any format provided for production of

experience certificate, the certificates produced by him, have to be construed as certificates conforming to Paragraph 5-B(v) of the Notification.

7. We heard the learned counsel on either side and perused the materials available on record.

8. The two certificates - one issued by T.V. Sundaram Iyengar & Sons and the other by Aruppukottai Sri Jayavilas Ltd, in our view, cannot, by any stretch of imagination, be regarded as certificates conforming to the requirements of Paragraph 5-B(v) of the Notification. The first of the certificates states that the appellant has underwent training as Technician Apprentice from 1.11.2001 to 31.10.2002 and during the said period he had undergone training in attending the major and minor repairs works in respect of light motor vehicle (petrol) and heavypassenger vehicle, heavy goods vehicle and light motor vehicle of diesel. Likewise, the other certificate issued by Aruppukottai Sri Jayavilas Ltd., dated 18.2.2007 also is to the effect that the appellant was employed as Supervisor and he underwent training in attending to the repairs - both major and minor, of light motor and heavy passenger motor diesel vehicles for the period from 1.3.2006 to 31.12.2006. It further stated that the appellant took all the repaired vehicles for trial driving practice during that period. Thus the two certificates referred to above cannot be regarded as certificates which conform to the requirements in paragraph 5-B(v) of the Notification which reads as under:

"Must have experience in Driving Heavy Transport Vehicles for a period of not less than six months".

The fact that the appellant was having experience in repairing the vehicles and was taking the repaired vehicles for a trial drive for a short distance, cannot be regarded as the appellant was having experience in driving heavy vehicle for a period of not less than six months.

9. In respect of the other contention that in the absence of any particular format prescribed for production of experience certificate, the two certificates referred to above have to be regarded as certificates of experience, is not legally sustainable. When the appellant himself has produced certificates for having attended to the repair works in the workshops from two different motor vehicle workshops and thus understood the notification in the proper perspective, mere non furnishing of the format in which the certificate should be furnished, cannot be taken seriously against the respondents. When the appellant has understood the other requirements and furnished certificates as required, in respect of experience requirements also, clause 5 would have been understood in the same manner and he would have filed certificates showing his experience in driving heavy transport vehicle for not less than six months. Hence, the second contention is also raised only for rejection.

10. On the legal issue, we are in full agreement with the reasoning given by the learned single Judge. A Division Bench of this Court in the case of *Dr. A. Rajapandian v. State of Tamil Nadu (supra)*, dealt with the scope of judicial review in a matter of this nature and held that if there are defective applications, the Commission has the right to reject the application. In holding so, the Division Bench also took note of the judgment of earlier Division Bench in the

case of *Dr. M. Vennila v. Tamil Nadu Public Service Commission*, (2006) 3 MLJ 376 : 2006 (3) CTC 449. Hence, a defective applicant cannot agitate the matter by way of writ petition.

**11.** For the foregoing reasons, we do not find any ground to interfere with the order under challenge. The writ appeal is dismissed. No costs. The connected miscellaneous petition is consequently dismissed.