

Case relating to Qualification:

Parties : S. Winston Joseph Versus The Secretary Tamil Nadu Public Service Commission

Court : High Court of Judicature at Madras

Case No : W.P.No.27190 of 2006 (T), O.A.No.7840 of 1995

Judges: THE HONOURABLE MR. JUSTICE M. JAICHANDREN

Appearing Advocates : For the Petitioner: S. Ilamvaludhi, Advocate. For the Respondent: C.N.G. Ezhilarasi for T.N.P.S.C.

Date of Judgment :

14-07-2008 **Head**

Note :-

Constitution of India - Article 226 - Writ of Certiorarified Mandamus – issue pertaining to rejection of application to the post of Motor Vehicle Inspector Grade II – held, keeping aside the other facts the petitioner did not possess the required marks in the written examination necessary to be called for the oral test - the cut off marks prescribed for being called to participate in the oral test was higher than had secured - could not qualify himself for being selected as Motor Vehicles Inspector Grade II in the written examination conducted by the Tamil Nadu Public Service Commission – hence the writ petition dismissed.

Judgment :-

(This writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records in connection with the memorandum No.7481/APD-C1/95, dated 12.12.1995, issued by the Secretary Tamil Nadu Public Service Commission, Madras-2 and set aside the same.)

The petitioner has stated that after he had completed his Xth Standard, he had undergone a Diploma in Mechanic and Engineering (Electric Automobile Engineering and Heavy Vehicle Technology) course in the year, 1983. The petitioner had completed his Technical apprenticeship during the years, 1987 and 1988. The petitioner is the owner of a lorry and he has also obtained a driving experience certificate. The Tamil Nadu Public Service Commission had issued a notification, on 30.8.1995, calling for applications from the qualified persons for appointment to the post of Motor Vehicle Inspector Grade II. The petitioner had applied for the post, on 13.10.1995, with all the relevant particulars. However, the petitioner had received a memorandum from the Deputy Secretary to the Service Commission stating that his application had been rejected on the ground that he does not possess the prescribed qualifications as required in sub paragraph IV under paragraph (4) of the Commission's notification, dated 30.8.1995, which states that the petitioner must hold a driving licence and he must also have the experience in driving heavy transport vehicles for a period of not less than six months. Even though the petitioner had all the qualifications prescribed in the

notification, the application was wrongly rejected by the Tamil Nadu Public Service Commission.

2. In the reply affidavit filed on behalf of the respondents, it has been stated that the Tamil Nadu Public Service Commission, by its notification, dated 30.8.1995, had invited the applications from the intending candidates for appointment to the post of Motor Vehicles Inspector Grade II in the Tamil Nadu Transport Subordinate Service to be filled up by direct recruitment. As per the qualifications prescribed in the Special Rules governing the post of Motor Vehicles Inspector, Grade-II, included in the Tamil Nadu Transport subordinate service, as amended in G.O.Ms.No.854 (Tr-II) Department, dated 9.6.1995, the petitioner, apart from possessing other qualifications prescribed therein, must also have experience in driving heavy transport vehicles for a period of not less than six months. Though the petitioner was in possession of a driving licence authorizing him to drive heavy transport and passenger vehicles, he did not claim to be possessing the required experience in driving heavy transport vehicles, as specified in the notification. Therefore, his application was rightly rejected. However, by an interim order passed by the Tamil Nadu Administrative Tribunal, the petitioner was permitted to write the examinations.

3. Mr. S. Ilamvaludhi, the learned counsel appearing for the petitioner had submitted that in spite of the petitioner possessing all the necessary qualifications, as prescribed in the notification of the Tamil Nadu Public Service Commission, dated 30.8.1995, his application was wrongly rejected on the ground that he did not possess the necessary experience in driving heavy transport vehicles for a period of not less than 6 months. Therefore, the petitioner ought to have been considered for being selected for the post of Motor Vehicles Inspector Grade II.

4. Per contra, Ms. C.N.G. Ezhilarasi, the learned counsel appearing for the Tamil Nadu Public Service Commission, had submitted that the Tamil Nadu Public Service Commission had invited applications from candidates for appointment to the post of Motor Vehicles Inspector Grade II included in the Tamil Nadu Transport Subordinate Service by direct recruitment, in its notification, dated 30.8.1995. One of the qualifications prescribed for the recruitment is that a candidate must have experience in driving heavy transport vehicles for a period of not less than 6 months.

5. It was also submitted that the selection to the post of Motor Vehicles Inspector Grade II was to be made in two successive stages viz. i) (Main) Written Examination and ii) Oral test by way of an interview. Accordingly, the written examination was conducted on 6.1.1996 and 7.1.1996. The answer books of the candidates were evaluated. Based on the marks obtained in the written examination and having regard to the rule of reservation of appointments, the candidates were admitted to the oral test conducted on 21.1.1998, 22.1.1998 and 23.1.1998. Thereafter, the selection was finalized and the list of selected candidates were forwarded to the appointing authority for issuing necessary appointment orders. However, the petitioner, who was belonging to the Backward Class, with Register No.420131, was one

of the candidates who had applied for being selected to the post of Motor Vehicles Inspector Grade II. However, it was found that the petitioner had not stated that he possessed the required driving experience, as prescribed in the notification, nor did he send any evidence to show that he had possessed the driving experience necessary for submitting the application. Therefore, his application had been rejected. However, the petitioner had taken written the examination pursuant to the interim order passed by the Tamil Nadu Administrative Tribunal. The petitioner had secured 104.5 marks in the written examination. The cut off marks for the candidates belonging to the Backward class for admission to the oral test was 134.5 marks. Since the petitioner had secured only 104.5 marks, he was not summoned for the oral test. In such circumstances, the relief sought for by the petitioner is without any merit and therefore, liable to be rejected.

6. In view of the submissions made by the learned counsels appearing for the parties concerned and on a perusal of the records placed before this Court, it is seen that the petitioner did not possess the required marks in the written examination necessary to be called for the oral test. Since he was belonging to the Backward Class, the cut off marks prescribed for being called to participate in the oral test was 134.5 marks whereas, the petitioner had secured only 104.5 marks. Thus, it is clear that the petitioner could not qualify himself for being selected as Motor Vehicles Inspector Grade II in the written examination conducted by the Tamil Nadu Public Service Commission, on 6.1.1996 and 7.1.1996. In such circumstances, the writ petition stands dismissed. No costs.