

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 09.10.2015
Delivered on: 18.04.2016

CORAM

THE HON'BLE MR.JUSTICE V.RAMASUBRAMANIAN

W.P.Nos.12157, 12165, 12322 & 12323 of 2010
&

W.P.(MD) Nos.7446, 7447, 7535 to 7538,
7552, 7577, 7771 of 2010 & 1713 of 2011

M.S.Moosa Mubarak Ali	Petitioner in WP 12157/10
T.Shanmuganathan	Petitioner in WP 12165/10
S.Kuppu	Petitioner in WP 12322/10
N.Anbarasi	Petitioner in WP 12323/10
Poongothai	Petitioner in WP (MD) 7446/10
Rajarajeswari	Petitioner in WP (MD) 7447/10
N.Marimuthu	Petitioner in WP (MD) 7535/10
S.Suresh Kumar	Petitioner in WP (MD) 7536/10
P.Babu	Petitioner in WP (MD) 7537/10
Dr.V.Uma	Petitioner in WP (MD) 7538/10
M.Rajendra Kumar	Petitioner in WP (MD) 7552/10
Anna Arulmozhi	Petitioner in WP (MD) 7577/10
S.Rajasekar	Petitioner in WP (MD) 7771/10
S.Samsudeen	Petitioner in WP (MD) 1713/11

Vs.

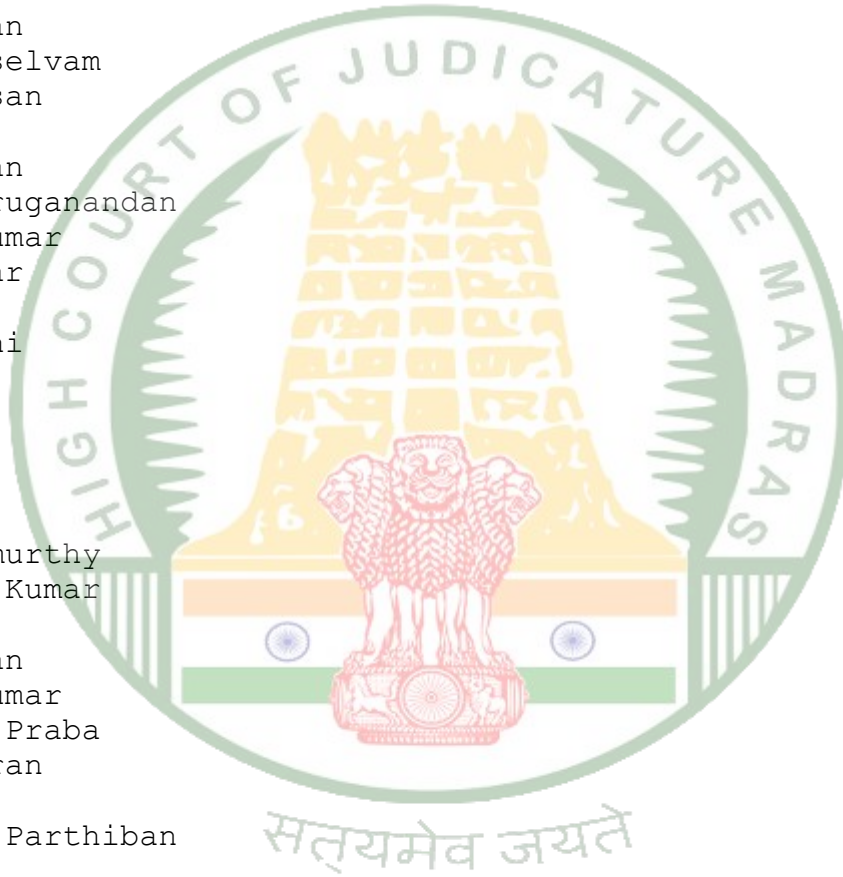
The Secretary
Tamil Nadu Public Service
Commission
Chennai 600 006.

... R1 in WP 12157 & 12322
& 12323/10, WP (MD) 7446, 7447,
7577, 7771/10, 1713/11,
R2 in WP 12165/10, R4 in WP (MD)
7552/10

The Director of Collegiate Education ... R2 in WP 12157/10,
College Road, Chennai 600 006. WP (MD) 7552/10

C.Uma Devi
P.Prasanna Kumar
S.Arokiya Antonyraj
V.Sujitha
A.Thajunnishabi
S.Mahendran
S/o.M.Subramaniam

J.Manohar Chendur Pandi
Jasinth Gracelin
K.Muthukumarasamy
C.Murugadhasan
C.Senthil
K.Vasudevan
V.Veeran
Giridharan K
K.Mahalakshmi
D.Lizza Rajakumari
D.Anuradha
P.Ramesh
T.Narandran
S.Ananthaselvam
M.Srinivasan
M.Santhi
M.Kumaresan
Surulu Muruganandan
N.Vijayakumar
P.Sivakumar
M.Inbaraj
I.Selvarani
M.Ravi
Kumanan
Aruna.K
N.Gowri
R.Gopika
M.Krishnamurthy
S.Senthil Kumar
S.Prasath
A.Riaz Khan
N.Vijayakumar
V.Lakshmi Praba
R.Prabakaran
T.Kumanan
Dr.I.John Parthiban
Vennial
P.Ramesh
D.Anuradha
N.Jawahar Benjamin
T.Rajaram



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... R3 to R49 in
WP No.12157 of 2010

[R3 to R35 impleaded vide order dated
26.10.2010 in M.P.Nos.4,5 & 6 of 2010
& R36 to R49 impleaded vide order
dated 27.01.2012 in M.P.No.2 of 2011]

The Secretary
Higher Education Department
Government of Tamil Nadu
Secretariat, Fort St. George
Chennai 600 009.

... R1 in WP 12165/10

The Under Secretary
Tamil Nadu Public Service Commission
Omanthoorar Government Estate
Anna Salai, Chennai 600 002.

... R3 in WP 12165/10

The Registrar
Tamil Nadu Physical Education and Sports
University Omanthoorar Government Estate
Anna Salai, Chennai 600 002.

... R4 in WP 12165/10,
R2 in WP(MD) 7771/10

The Post Master
Ammapettai Post Office
Chidambaram, Cuddalore 608 401.

... R5 in WP 12165/10

M.Inbaraj ... R6 in WP 12165/10, R3 in
[Impleaded vide orders dated R3 in WP 12322 & 12323/10
26.10.2010 in M.P.No.2 of 2010.....]
R3 in WP.No.12165/10, 12322 & 12323/10

The Secretary
University Grants Commission

New Delhi 110 002. ... R2 in WP 12322 & 12323/10
(R5 Impleaded vide order dated 18.4.16 in
MP.3, 3/10 in WP(MD) Nos.7536 & 7538/10)

... R5 in WP(MD) 7536 & 7538/10

The State of Tamil Nadu
rep. by its Secretary to Government
Tamil Nadu Public Service Commission
Department Commercial Tax Building
Annexe No.1, Greams Road, Chennai.
[Impleaded vide order dated
30.3.2011 in M.P.No.1 of 2011]

... R2 in WP(MD) 7446, 7447/10

The Chairman
Tamil Nadu Public Service Commission
Chennai.

The Secretary
Government of Tamil Nadu
St. George Fort, Chennai.

The Secretary
Tamil Nadu Collegiate Service
Government of Tamil Nadu
St. George Fort
Chennai.

The Chairman
Teachers Recruitment Board
College Road
Chennai.

... R1 to R4 in WP(MD) Nos.
7535 to 7538/10

The Secretary
Education Department
St. Fort George
Chennai 9.

... R1 in WP(MD) 7552/10

The Registrar
Tamil Nadu Physical Education and
Sports University
8th Floor, EVK Sampath Maligai
College Road, Chennai 6.

... R3 in WP(MD) 7552/10
& R2 in WP(MD) 7771/10 & 1713/11

The Controller of Examination
Tamil Nadu Public Service Commission
Omanthoorar Govt. Estate, Chennai.

... R2 in WP(MD) 7577/10

Petition under Article 226 of the Constitution of India
praying for in:

(1) W.P.No.12157 of 2010 - a writ of Certiorarified Mandamus calling for the records relating to the select list published by the first respondent which contains the register number of 90 candidates by which those 90 candidates were admitted and allowed to attend the oral test/interview which is scheduled to be held on 14.6.2010, quash the same and consequently, direct the respondents to include the register number of all the candidates, including the petitioner, who were qualified in the written test and physical fitness test for oral test and make the final selection and appointment to the post of Physical Director in the existing 43 notified vacancies, both based on the total marks obtained by the candidates in the written test and oral test/ interview together and award costs;

(2) W.P.No.12165 of 2010 - a writ of Certiorarified Mandamus calling for the entire records pertaining to the Memorandum No.5739/APD-K/2009 dated 12.5.2010 of the third respondent and quash the same and consequently, direct the respondents to

permit the petitioner to attend the oral test for appointment by direct recruitment to the post of Director of Physical Education in the Tamil Nadu Collegiate Educational Service for the year 2007-2009 that is to be held on 14.6.2010 at the office of the Tamil Nadu Public Service Commission;

(3) W.P.Nos.12322 & 12323 of 2010 - a writ of Declaration declaring Clause 4(B) of the 1st respondent's notification (dated 29.7.2009) for the post of Director of Physical Education in Advertisement No.210 issued by the first respondent is ultra vires to UGC (Minimum Qualifications Required for the Appointment and Career Advancement of Teachers in Universities and Institutions affiliated to it) (3rd amendment) Regulation 2009 and consequently, direct the first respondent to cancel the list of candidates called for oral test to be held on 14.6.2010 without possessing the prescribed qualification of NET/SLET/Ph.D;

(4) W.P.(MD)Nos.7446, 7447 of 2010 - a writ of Certiorarified Mandamus to call for the records relating to the notification dated 29.7.2009 by the first respondent with regard to the post of Director of Physical Education in the Universities and College Services and to quash the same so far as the candidates possessing M.Phil Degree alone is concerned and consequently, direct the respondent to call for the candidate having qualification Ph.D. or NET/SLET based upon UGC (Minimum Qualifications required for the Appointment and Career Advancement of Teachers in Universities and Institutions Affiliated to it (3rd Amendment) Regulation 2009, UGC for oral test;

(5) W.P.(MD)Nos.7535 to 7538 of 2010 - a writ of Certiorari calling for the proceedings of the first respondent in his notification/advertisement No.210 dated 29.7.2009 and quash the same, insofar as the petitioner is concerned and quash the entire selection process as arbitrary, illegal and against the law;

(6) W.P.(MD) No.7552 of 2010 - a writ of Mandamus directing the respondents to consider the petitioner for an appointment to the post of Director of Physical Education in Government Colleges in Tamil Nadu Collegiate Educational Service;

(7) W.P.(MD) No.7577 of 2010 - a writ of Certiorari calling for the records pertaining to impugned list of register number of candidates who have been admitted provisionally to the oral test for appointment by direct recruitment to the post of Director of Physical Education in the Tamil Nadu Collegiate Educational Service for the year 2007-2009 issued by the second respondent and quash the same as illegal and arbitrary;

(8) W.P.(MD) Nos.7771 of 2010 & 1713 of 2011 - a writ of Certiorarified Mandamus calling for the records relating to the impugned notification/advertisement issued by the first respondent in Advertisement No.210 dated Nil and quash the same as illegal insofar it relates to clause 4(B)(iv) of the said notification prescribing the educational qualification for UGC Level Teaching and consequently, to direct the respondents to call the petitioner for interview and consider the petitioner for appointment to the post of Director of Physical Education.

For Petitioner in

WP No.12157/10 : Mr.V.Ajay Khose
WP No.12165/10 : Mr.R.Selvakumar
WP No.12322/10 : Mr.S.Vijay Narayan, S.C.
For Mr.S.Ambigapathi
WP(MD) 7446,7447/10 : Mr.S.T.Sasidharan Tamilkani
WP(MD) 7535 to 7538/10 : Mr.M.Karunanithi
WP(MD) 7552/10 : Mr.M.Ramadhas
WP(MD) 7577/10 : Mr.Baalasundharam
WP(MD) 7771/10 & 1713/11 : Mr.M.Ajmal Khan for
M/s.Ajmal Associates
For TNPSC : Ms.C.N.G.Niraimathi
For State : Mrs.A.Srijayanthi, Spl.G.P.
For UGC : Mr.P.R.Gopinathan
For Teachers
Recruitment Board : Not ready in notice
For.....
For R6 & R3 in WP
12322 & 12323/10 : Mr.S.Soundara Rajan
For R6 in WP.12165/10 : Mr.M.S.Soundararajan
R3 to R28, R29, R36 : Mr.A.Jenasenan
to R49 in WP.12157/10 : Mr.M.S.Soundararajan
: Mr.G.Sankaran
: Mr.T.C.Gopalakrishnan

O R D E R

V.RAMASUBRAMANIAN, J

By an advertisement bearing No.210 issued on 29.7.2009, the Tamil Nadu Public Service Commission invited applications for appointment to 43 posts of Director of Physical Education in the Tamil Nadu Collegiate Education Services. The last date for receipt of applications was indicated as 31.8.2009. The selection was to be in two successive stages namely one written examination of a duration of 3 hours, with a single paper carrying a maximum of 300 marks followed by oral test, for a maximum of 40 marks.

2. Paragraph 4 (B) of the advertisement indicated the educational qualifications prescribed for appointment to the said post. This paragraph reads as follows:-

" (B) EDUCATIONAL QUALIFICATION: Candidates should possess the following or its equivalent qualification on the date of this Notification viz. 29.7.2009.

(i) Master's Degree in Physical Education (two years course) or Master's degree in sports or an equivalent degree with at least 55 percent of marks or its equivalent grade of B in the University Grants Commission 7 (Seven) points scale plus a consistently good academic records;

(ii) Record of having represented the University/College at the inter-University inter-Collegiate competitions or the State in National championships;

(iii) Passed the Physical fitness test;

(iv) NET or SLET or an accredited Test shall remain the compulsory requirement for appointment as Director of Physical Education for those with Post Graduate Degree. However, the candidates having Ph.D Degree in the concerned subject are exempted from NET, SLET, or an accredited Test for PG level and UG level teaching. The candidates having M.Phil degree in the concerned subject are exempted from NET or SLET or an accredited Test for UG level teaching only."

3. But about 18 days before the issue of the said advertisement, the University Grants Commission had notified a new set of Regulations. These Regulations were called the "UGC (Minimum Qualifications Required for the Appointment and Career Advancement of Teachers in Universities and Institutions affiliated to it) (Third Amendment) Regulations 2009". These Regulations came into force on 11.7.2009, when they were published in the Gazette of India. As per these Regulations, a pass in NET/SLET was stipulated as the minimum eligibility criteria for recruitment and appointment of Lecturers in Universities/Colleges/ Institutions. The proviso inserted by the amendment stipulated that candidates who are awarded Ph.D. Degree in compliance of the 2009 Regulations shall be exempt from the requirement of minimum eligibility of a pass in NET/SLET for recruitment and appointment as Assistant Professor or equivalent positions in Universities/ Colleges/ Institutions.

4. The above amendment which came into force on 11.7.2009 was omitted to be taken note of by the TNPSC, when they issued

the advertisement dated 29.7.2009. The advertisement issued by TNPSC prescribed qualifications that were in existence before the amended Regulations came into force.

5. But unfortunately, without any demur or protest, 2,443 candidates applied in response to the notification issued by the TNPSC. Out of them 1,299 candidates were admitted for the written examination held on 25.10.2009. But only 1,127 candidates appeared for the examination. Out of them 624 candidates were shortlisted for physical fitness test in the ratio of 1:15. The physical fitness test was conducted on 23-4-2010, 24-4-2010 and 5-5-2010. But only 587 candidates appeared for physical fitness test.

6. Thereafter, a total of about 90 candidates in the ratio of 1:2, were invited for an oral test, in June 2010. Finding that their names did not find a place in the list of 90 candidates shortlisted for interview, a group of persons filed writ petitions, both on the file of the Principal Bench and on the file of the Madurai Bench of this Court. All the petitioners in this batch of cases are those who are qualified even as per the amended UGC Regulations that came into force on 11.7.2009. Therefore, their simple contention in these writ petitions is that candidates who do not fulfill the qualifications prescribed in the amended Regulations of UGC, ought not to have been called for interview and ought not to be selected.

7. Though all the writ petitioners herein are those who have applied in response to the advertisement issued by the TNPSC on 29.7.2009 and though all of them appeared for the written test and have come up with the writ petitions only after finding themselves not included in the list of candidates shortlisted for interview, the prayers made by these petitioners appear to be of different kinds. Therefore, the reliefs sought for by the writ petitioners are given in the form of a tabulation for easy appreciation as follows:-

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Petitioner in	Prayer	Qualification with %	Qualified in
WP 12157/10	writ of Certiorari Mandamus calling for the records relating to the select list published by the first respondent which contains the register number of 90 candidates by which those 90 candidates were admitted and allowed to attend the oral test/interview which is scheduled to be held on 14.6.2010, quash the same and consequently, direct the respondents to include the register number of all the candidates, including the petitioner, who were qualified in the written test and physical fitness test for oral test and make the final selection and appointment to the post of Physical Director in the existing 43 notified vacancies, both based on the total marks obtained by the candidates in the written test and oral test/ interview together and award costs	M.P.Ed. - 69% M.Phil PGD in Sports Management Ph.D.+ SLET	Written test & physical fitness test

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Petitioner in	Prayer	Qualification with %	Qualified in
WP 12165/10	writ of Certiorari of Mandamus calling for the entire records pertaining to the Memorandum No. 5739/APD-K/2009 dated 12.5.2010 of the third respondent and quash the same and consequently, direct the respondents to permit the petitioner to attend the oral test for appointment by direct recruitment to the post of Director of Physical Education in the Tamil Nadu Collegiate Educational Service for the year 2007-2009 that is to be held on 14.6.2010 at the office of the Tamil Nadu Public Service Commission	No qualification is mentioned	Written test... could not participate in physical fitness test due to the delay in getting the call letter
WP 12322/10	writ of Declaration declaring Clause 4(B) of the 1st respondent's notification (dated 29.7.2009) for the post of Director of Physical Education in Advertisement No.210 issued by the first respondent is ultra vires to UGC (Minimum Qualifications Required for the Appointment and Career Advancement of Teachers in Universities and Institutions affiliated to it) (3rd amendment) Regulation 2009 and consequently, direct the first respondent to cancel the list of candidates called for oral test to be held on 14.6.2010 without possessing the prescribed qualification of NET/SLET/Ph.D;	No qualification is mentioned SLET	Written test & Physical fitness test
WP 12323/10	-- Do --	SLET	Written test & Physical fitness test

Petitioner in	Prayer	Qualification with %	Qualified in
WP (MD) 7446/10	writ of Certiorari Mandamus to call for the records relating to the notification dated 29.7.2009 by the first respondent with regard to the post of Director of Physical Education in the Universities and College Services and to quash the same so far as the candidates possessing M.Phil Degree alone is concerned and consequently, direct the respondent to call for the candidate having qualification Ph.D. or NET/SLET based upon UGC (Minimum Qualifications required for the Appointment and Career Advancement of Teachers in Universities and Institutions Affiliated to it (3rd Amendment) Regulation 2009, UGC for oral test	B.Sc. M.P.Ed. M.Phil PDG in Yoga Ph.D. NET	Written test & Physical fitness test
WP (MD) 7447/10	--- DO ---	B.Sc., M.A. M.P.Ed. M.Phil Ph.D.	Written test & Physical fitness test
WP (MD) 7535/10	writ of Certiorari calling for the proceedings of the first respondent in his notification/advertisement No.210 dated 29.7.2009 and quash the same, insofar as the petitioner is concerned and quash the entire selection process as arbitrary, illegal and against the law	M.P.Ed. Ph.D.	Written test & Physical fitness test
WP (MD) 7536/10	-- DO --	M.P.Ed. M.Phil NET	Written test & Physical fitness test

Petitioner in	Prayer	Qualification with %	Qualified in
WP (MD) 7537/10	-- DO --	M.P.Ed. Ph.D. NET	Written test & Physical fitness test
WP (MD) 7538/10	-- DO --	M.P.Ed. Ph.D. PGD in Yoga NIS Diploma in Athletic NET	Written test & Physical fitness test
WP (MD) 7552/10	writ of Mandamus directing the respondents to consider the petitioner for an appointment to the post of Director of Physical Education in Government Colleges in Tamil Nadu Collegiate Educational Service	M.A. M.P.Ed. NET	Written test & Physical fitness test
WP (MD) 7577/10	writ of Certiorari calling for the records pertaining to impugned list of register number of candidates who have been admitted provisionally to the oral test for appointment by direct recruitment to the post of Director of Physical Education in the Tamil Nadu Collegiate Educational Service for the year 2007-2009 issued by the second respondent and quash the same as illegal and arbitrary	B.Sc., M.A. M.P.Ed. M.Phil. PGD in Yoga Ph.D. (undergoing at that time) NET	Written test & Physical fitness test

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Petitioner in	Prayer	Qualification with %	Qualified in
WP (MD) 7771/10	writ of Certiorari Mandamus calling for the records relating to the impugned notification/advertisement issued by the first respondent in Advertisement No.210 dated Nil and quash the same as illegal insofar it relates to clause 4(B)(iv) of the said notification prescribing the educational qualification for UGC Level Teaching and consequently, to direct the respondents to call the petitioner for interview and consider the petitioner for appointment to the post of Director of Physical Education.	M.Phil (P.Ed.) Ph.D. 4	Written test & Physical fitness test
WP (MD) 1713/11	-- DO --	M.Phil (P.Ed.) NET	Written test & Physical fitness test

8. At the time when the earliest of the writ petitions was admitted, an interim order was passed. It was followed in other cases, as a consequence of which, the entire selection was put on hold for nearly 6 years. Therefore, all the cases were grouped together and even those filed in Madurai Bench were transferred under the orders of the Hon'ble Chief Justice, to this Court to be heard together.

9. In the meantime, several persons who were included in the list of 90 candidates shortlisted for interview came up with applications for impleadment. Some of them claim that they are not at fault and that they should not be penalised. A few of those impleading petitioners have now become qualified as per the amended UGC Regulations. Therefore, they have come up with applications for impleadment and for vacating the interim order. But in view of the stalemate, I took up the writ petitions themselves for hearing.

10. I have heard all the learned counsel appearing for the writ petitioners, Mrs.Srijayanthi, learned Special Government Pleader appearing for the Government, Ms.C.N.G.Niraimathi, learned Standing Counsel for the Public Service Commission and all the learned counsel appearing for the impleaded parties.

11. On one of the earlier occasions when the writ petitions came up for hearing, I directed the learned Standing Counsel for the Public Service Commission to find out as to how many, out of 90 candidates shortlisted for interview, fulfilled even the eligibility criteria prescribed under the amended Regulations of the UGC. On 28.8.2015, the learned Standing Counsel informed me that out of 90 candidates shortlisted for interview, 46 are fully qualified even as per the amended Regulations of UGC. But the performance of those 90 candidates in the oral test was not known, as the Interview Committee had kept the results in a sealed cover. Therefore, on 28.8.2015, I passed an interim order, paragraphs 6 to 8 of which read as follows:-

"6. In order to find out the factual details on ground, this Court had earlier directed the Public Service Commission to find out as to how many candidates out of those 90 shortlisted for interview, fulfilled even the eligibility criteria under the UGC Regulations of the year 2009, Ms.C.N.G.Niraimathi, learned Standing Counsel produced a list containing the names and registration numbers of 46 candidates who passed NET/SLET and who are qualified even as per the UGC Regulations of the year 2009.

7. In other words, out of the 90 candidates now shortlisted for interview, 46 candidates fulfilled even the UGC Regulations of the year 2009. If out of the 90 candidates who were called for interview, the Service Commission finds 43 candidates to be ultimately successful for appointment and if those 43 candidates fulfilled even the UGC Regulations of the year 2009, then automatically the challenge will fizzle out. If only some of the candidates ultimately selected do not fulfill the eligibility criteria prescribed by the UGC Regulations of the year 2009, the challenge of the writ petitioners may survive.

8. Therefore, the Public Service Commission, after perusing the marks secured by these 90 shortlisted candidates in the written examination, physical fitness and oral test, shall furnish a list to this Court, of the candidates who may ultimately get selected if there were no writ petitions, along

with an indication as to how many of them would fulfill the eligibility criteria prescribed by UGC Regulations 2009. This information to the court will resolve the issue without which ado. Therefore, the Service Commission is directed to furnish a list by 4.9.2015, giving a probable list of ultimate selectees along with their registration numbers and names together with an indication as to who among them were qualified as per UGC Regulations 2009."

12. On the next date of hearing, the Standing Counsel for the Public Service Commission produced in a sealed cover, the final tally of results. It was found from the final tally of results that out of 43 candidates who would have otherwise been selected, had there been no writ petitions, only 25 were qualified as per the amended Regulations of UGC even on the date of notification namely 29.7.2009. But it appears that out of the remaining 18, a few persons have become qualified as per the amended UGC Regulations, during the pendency of the above writ petitions.

13. Therefore, the scenario that is now presented before me is that if the notification for recruitment issued on 29.7.2009 is confined only to the selection of candidates who are fully qualified even as per the amended UGC Regulations, only 25 candidates will get selected. Keeping this fact in mind, let me now examine the rival contentions.

14. As I have indicated in the tabular statement given in para 7 above, some petitioners have come up with a prayer to quash the list of 90 candidates shortlisted for interview, on the ground that those who are not qualified as per the amended UGC Regulations should not have been called for interview. A few petitioners have sought a declaration to declare that para 4(B) of the advertisement dated 29.7.2009 is illegal and ultra vires the amended UGC Regulations. One or two persons have merely sought a mandamus to direct the respondents to consider their applications on the ground that they are fully qualified as per the amended UGC Regulations.

15. In other words, the writ petitions on hand can be categorised into the following types:

- (i) Those challenging the very advertisement dated 29.7.2009 as not being in conformity with the amended UGC Regulations;
- (ii) Those challenging only the inclusion of unqualified persons in the list of 90 candidates called for interview; and
- (iii) Those who seek a mere mandamus.

16. In so far as the first category of cases is concerned, it is now well settled that a person, who participates in the process of selection pursuant to a notification, cannot challenge the validity of the notification itself, after finding himself unselected. There is no need to multiply authorities for this proposition. It is sufficient to cite a recent decision of the Supreme Court in *Madras Institute of Development Studies v. Dr.K.Sivasubramanian* (Civil Appeal No.6465 of 2015 decided on 20.8.2015). In the said case, the Supreme Court cited the development of law in this regard, right from the decision in *Dr.G.Sarana v. University of Lucknow* [(1976) 3 SCC 585], *Madan Lal v. State of J&K* [(1995) 3 SCC 486], *Manish Kumar Shahi v. State of Bihar* [(2010) 12 SCC 576] and *Ramesh Chandar Shah v. Anil Joshi* [(2013) 11 SCC 309]. Therefore, it is rightly contended by the learned Standing Counsel for the Public Service Commission that all the writ petitions deserve to be dismissed on the basis of the above proposition.

17. In so far as the second category of cases is concerned, they have chosen not to challenge the notification but to challenge only the inclusion of unqualified candidates. But those unqualified candidates are not made parties to the writ petitions. They are unqualified in the light of the amended UGC Regulations. But they have fulfilled eligibility criteria in terms of the notification for selection. Therefore, unless the notification for selection is set aside, the petitioners cannot independently maintain a prayer targeting only these individuals. Similarly the third category of cases, have no legs to stand, since they seek a mere mandamus. Therefore, all the writ petitions can easily be dismissed, on the grounds indicated in this and in the preceding two paragraphs.

18. But there is a small caveat. No notification for recruitment can be contrary to the statutory prescription. Therefore, if I dismiss the writ petitions on the ground that the writ petitioners had already participated in the process of selection, it may lead to a situation where the Service Commission may select the candidates who are not qualified as per the amended UGC Regulations. This situation cannot be permitted.

19. As I have pointed out earlier, out of 90 candidates shortlisted for interview, 46 candidates fulfilled the amended UGC Regulations. But out of them, only 25 candidates ultimately survived in the interview. It means, 21 qualified candidates (46 fully qualified minus 25 ultimately survived) did not make it to the winning posts.

20. There are two possible alternatives that the Service Commission could adopt. The first possible alternative is to declare selection of only 25 candidates, on the ground that these 25 candidates who were fully qualified as per the amended UGC Regulations even at the time of applying for the post had come out successfully till the last lap. The second alternative available to the Service Commission is to eliminate 18 unqualified candidates and select the new set of 18 candidates from out of the remaining 21 fully qualified.

21. But the second alternative will reduce the zone of consideration to a great extent and virtually eliminate competition. Therefore, the first alternative appears to be the most appropriate one.

22. As a matter of fact, if the law is applied strictly, there are only two alternatives namely (i) either to dismiss all the writ petitions on the sole ground that the petitioners have come up with the writ petitions after participating in the selection or (ii) to set aside the entire selection on the ground that the Notification for selection was not in accordance with the UGC Regulations. If I adopt the first option, justice will not be done and unqualified candidates may get appointed. If I adopt the second option, the entire exercise undertaken by the Service Commission will go a waste. Therefore, I am of the considered view that allowing at least those 25 candidates who have now become successful in the interview and who were qualified even at the time of Notification, should be appointed.

23. Therefore, the writ petitions are disposed of directing the respondents to declare only those 25 candidates (i) who were fully qualified as per the amended UGC Regulations even on the date of Notification and (ii) who have qualified for selection after interview, as having been selected for appointment. The list shall be forwarded by the Public Service Commission to the Government and the Government may complete the remaining formalities and issue orders of appointment within 3 months. There will be no order as to costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

kpl/gr

To

- 1.The Secretary
Tamil Nadu Public Service Commission
Chennai 600 006.
- 2.The Director of Collegiate Education
College Road, Chennai 600 006.
- 3.The Secretary
Higher Education Department
Government of Tamil Nadu
Secretariat, Fort St. George
Chennai 600 009.
- 4.The Under Secretary
Tamil Nadu Public Service Commission
Omanthoorar Government Estate
Anna Salai, Chennai 600 002.
- 5.The Registrar
Tamil Nadu Physical Education and Sports
University
Omanthoorar Government Estate
Anna Salai, Chennai 600 002.
- 6.The Post Master
Ammapettai Post Office
Chidambaram, Cuddalore 608 401.
- 7.The Secretary
University Grants Commission
New Delhi 110 002.
- 8.The Secretary to Government
State of Tamil Nadu
Tamil Nadu Public Service Commission
Department Commercial Tax Building
Annexe No.1, Greams Road, Chennai.
- 9.The Chairman
Tamil Nadu Public Service Commission
Chennai.
- 10.The Secretary
Government of Tamil Nadu
St. George Fort, Chennai.

11.The Secretary
Tamil Nadu Collegiate Service
Government of Tamil Nadu
St. George Fort
Chennai.

12.The Chairman
Teachers Recruitment Board
College Road, Chennai.

13.The Secretary
Education Department
St. Fort George, Chennai 9.

14.The Registrar
Tamil Nadu Physical Education and
Sports University
8th Floor, EVK Sampath Maligai
College Road, Chennai 6.

15.The Controller of Examination
Tamil Nadu Public Service Commission
Omanthoorar Govt. Estate, Chennai.

+1cc to Mr.V.Ajay Khose, Advocate, S.R.No.23977
+1cc to Mr.P.R.Gopinathan, Advocate, S.R.No.24145
+1cc to Mr.G.Sankaran, Advocate, S.R.No.24838

W.P.Nos.12157,12165,12322 & 12323 of 2010
& W.P. (MD) Nos.7446,7447,7535 to 7538,
7552, 7577, 7771 of 2010 & 1713 of 2011

PUR(CO)
CA(01/06/2016)

सत्यमेव जयते

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