

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

W.A.No.1499 of 2017
and
CMP.No.19781 of 2017

The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
VOC Nagar,
Chennai - 600 003. Appellant/1st Respondent

vs.

- 1.A.G.Umarani ...1st Respondent/Writ Petitioner
- 2.The Secretary
Employment and Training
Secretariat,
Fort St. George,
Chennai - 600 009.
- 3.The Principal,
Dr.Ambedkar Government Law College,
Chennai - 600 104. Respondents 2 & 3/Respondents 2 & 3

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 06.11.2014 passed by a learned Single Judge of this Court in W.P.No.31874 of 2012.

W.P.No.31874 of 2012:

Writ petition filed under Article 226 of the constitution of India praying to issue Writ of Mandamus directing the respondents to forbear from calling for counselling or appointing persons whose names were not included in the list published on 8.6.2012 of successful candidates in the written examination called for interview for appointment by direct recruitment to the posts included in Combined Subordinate Service Examination I (Group II Services) and consequently direct the respondents to call the petitioner for counselling and appoint her to the said post.

For Appellant : Mr.M.Loganathan
For R1 : Mr.R.Karthikeyan
For R2 & R3 : Mr.R.Prathap Kumar, AGP

JUDGMENT

(Judgment of the Court was delivered by HULUVADI G. RAMESH, J.)

This Writ Appeal is filed by the Tamil Nadu Public Service Commission as against the order dated 06.11.2014 passed by a learned Single Judge in WP.No.31874 of 2012.

2.For better understanding, the parties are referred to as per their rank in the writ petition, i.e., the appellant herein as the first respondent therein and the first respondent herein as the petitioner therein. There is no change with regard to the rank of respondents 2 and 3 herein.

3.The petitioner has filed the aforesaid writ petition, seeking a direction to the respondents forbearing them from calling for counselling or appointing persons whose names were not included in the list published on 08.06.2012 of successful candidates in the written examination called for interview for appointment by direct recruitment to the posts included in Combined Subordinate Services Examination-I (Group-II Services). A further direction was also sought to the respondents to call the petitioner for counselling and appoint her to the said post.

4.By the order impugned herein, the learned Single Judge allowed the aforesaid writ petition, directing the first respondent to consider the case of the petitioner under Scheduled Caste (Women) PSTM category and give appropriate appointment within a period of eight weeks. While doing so, the learned Single Judge observed as follows:

"The above said facts would clearly show that the petitioner made a conscious decision to continue in the Tamil Medium. The object of the respondent No.2 is to encourage students, who are studying in Tamil Medium. Here is a case where the petitioner was made to join the law course at a time there was literally only one medium, namely, English. Even though, she continued in English medium, she did switch over to Tamil medium as soon as separate courses were started from the third year onwards in the year 1998-99. Therefore, the petitioner will have to be appreciated for her efforts as the object of the reservation would be achieved, in such a case. Further more, the petitioner did write all her examination in Tamil which is though not a material fact, but an

attending circumstance which had to be taken note of. Therefore, considering the above, this Court is of the considered view that the petitioner will have to be treated as Tamil medium student. In any case, the petitioner could not also be treated as English medium student. In view of the subsequent election to Tamil medium which was occasioned by the policy of the Government, this Court is of the view that the petitioner is entitled for consideration under the Scheduled Caste (Women) PSTM category.

5.It appears from the records that the first respondent invited applications by Notification No.258 dated 30.12.2010 for direct recruitment to various posts included in Combined Subordinate Services Examination. The petitioner had appeared for written examination and secured 217.50 marks. Based upon her claim that she has acquired her degree through Tamil Medium, she was called for oral test under Scheduled Caste (Women) PSTM Category. Though she secured 27 marks in the oral test, she was not considered for appointment, as she did not reach the zone of selection, which made her file the said writ petition.

6.According to the first respondent, since the petitioner had studied her law course in Tamil Medium only for two years out of five years, which shall not satisfy the requirement of PSTM category, the benefit of reservation cannot be granted to her. Hence, she has not been considered under SC(W) PSTM category and she has been considered as SC(W) category.

7.On the other hand, the petitioner stated that she joined the five year law course with the third respondent during the academic year 1995-96. At that time, there was no Tamil medium in the law course. After introduction of Tamil medium from the year 1998-99, the petitioner has switched over to Tamil medium and completed the law course for the remaining years. As such, she studied the law course for three years viz., 1995-96, 1996-97 and 1997-98 in English medium and for two years viz., 1998-99 and 1999-2000 in Tamil Medium. The petitioner further stated that when Tamil medium was introduced only in the middle of the course, there was no scope for pursuing the course in Tamil medium for all the five years. Therefore, she should be treated under PSTM category and appointment should be given on that basis.

8.We have given our anxious consideration to the rival submissions and scrutinized the materials placed before us.

9. In the year 2010, the Government of Tamil Nadu took a policy decision to provide for preferential treatment to persons, who studied in Tamil medium (in short 'PSTM') and introduced an Ordinance, whereby 20% of all Government posts were to be filled up on a preferential basis by persons who studied in Tamil Medium. Subsequently, the said Ordinance was replaced by an Act, viz., Act 4 of 2010, whereby the Government reiterated its policy decision. Thus, the persons who studied in Tamil Medium are entitled to 20% reservation of the posts in Government service after 2010.

10. Concededly, Tamil medium was introduced in the law course offered by the third respondent only from the year 1998-99 onwards. The petitioner has studied the five year course for the years 1998-99 and 1999-2000 in Tamil Medium, for which, a certificate has also been given by the third respondent to the petitioner.

11. We are of the opinion that when the petitioner had joined the course during the year 1995-96, there was no provision for pursuing the same in Tamil medium, as Tamil medium was introduced from the year 1998-99 onwards. On such introduction, she opted for Tamil medium for the remaining years and completed her course. If that is so, the subsequent completion of the degree in Tamil medium will not have taken away the right of the petitioner to be considered for PSTM reservation.

12. The learned Single Judge, having regard to the fact that the petitioner has switched over to Tamil medium as soon as separate courses were started from the year 1998-99 onwards, was of the view that she will have to be lauded for her efforts, by which, the object of the reservation would be achieved. The learned Single Judge further appreciated her efforts to write all her examinations in Tamil. With these observations, the learned Single Judge directed the first respondent to consider the case of the petitioner for appointment under SC(W) PSTM category.

13. We do not find any infirmity or illegality in the order so passed by the learned Single Judge. Accordingly, the same is confirmed. Consequently, the first respondent (TNPSC) is directed to consider the case of the petitioner under SC(W) PSTM category and give appointment to her, on merits, within a period of one month from the date of receipt of a copy of this judgment.

14.The writ appeal is disposed of as indicated above. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar(CS-IX)

True Copy

Sub-Assistant Registrar

rk

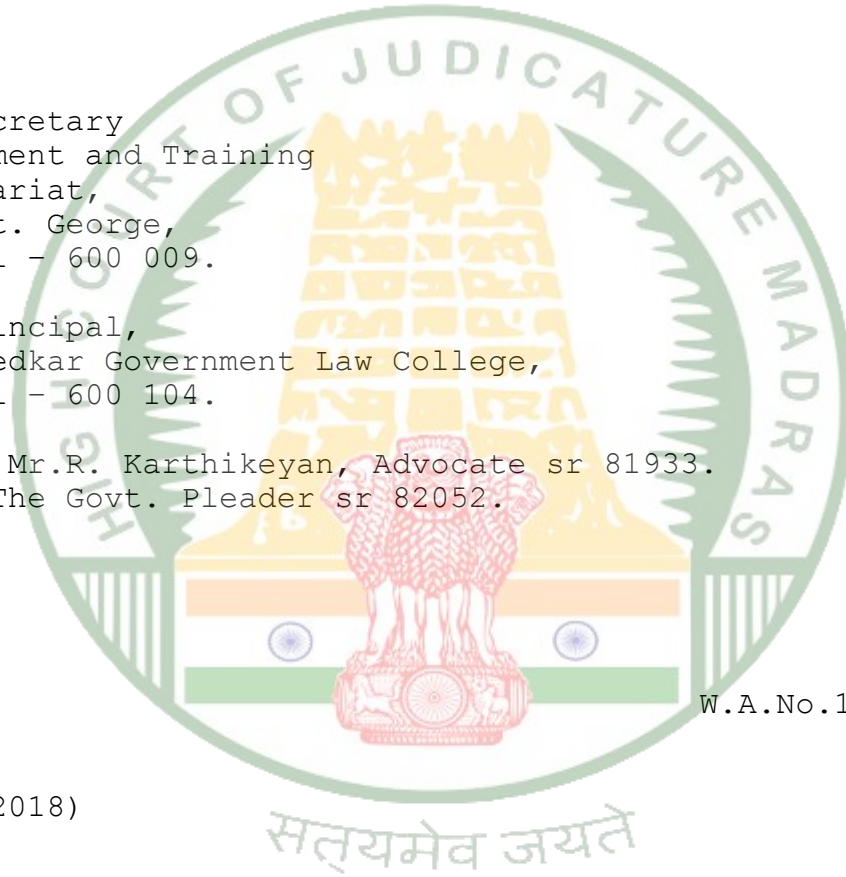
To

1. The Secretary
Employment and Training
Secretariat,
Fort St. George,
Chennai - 600 009.

2. The Principal,
Dr.Ambedkar Government Law College,
Chennai - 600 104.

+3 Ccs to Mr.R. Karthikeyan, Advocate sr 81933.

+1 CC to The Govt. Pleader sr 82052.



W.A.No.1499 of 2017

MR(CO)
SP(18/01/2018)

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