



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **30.06.2017**

CORAM:

THE HONOURABLE MR.JUSTICE **T.S.SIVAGNANAM**
AND
THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

W.A. [MD] .No.890 of 2017

M.Athilakshmi : Appellant/Petitioner

Vs.

1. The Government of Tamil Nadu,
Represented by its Secretary to Government,
Personnel and Administration Reforms Department,
Fort Saint George, Chennai-600 009.
2. The Tamil Nadu Public Service Commission,
Frazer Bridge Road, V.O.C. Nagar,
Park Town, Chennai-600 003.
Represented by its Chairman. : Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent to against the order dated 07.10.2016 made in W.P.(MD).No.21499 of 2015.

Prayer in WP(MD). 21499/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the respondents to appoint the petitioner to the post of Typist pursuant to the TNPSC Notification No.18/2014, Advertisement No.401/2014 dt.14.10.2014 for the year 2013-14 and 2014-15; Group-IV and grant all attendant and consequential benefits.

For Appellant : Mr.N.Dilip Kumar
For R1 : Mr.V.Muruganantham,
Additional Government Pleader,
For R2 : Mr.K.K.Senthil,
Standing Counsel.

JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mr.N.Dilip Kumar, learned counsel appearing for the appellant, Mr.V.Muruganantham, learned Additional Government Pleader, appearing for the first respondent and K.K.Senthil, learned Standing Counsel appearing for the second respondent.



2. By consent, the Writ Appeal is taken up for final disposal.

3. This Writ appeal is directed as against the order dated 07.10.2016 made in W.P.(MD).No.21499 of 2015.

4. The Writ petitioners, who were aggrieved the dismissal of the writ petition by a common order dated 07.10.2016, had preferred the W.A(MD)No.5 of 2017 and etc. batch and the Division Bench of this Court by Judgment dated 10.04.2017 allowed the appeals.

5. The operative portion of the said order reads as follows:

"13. In this regard, a reference could be placed to a recent decision of a Division Bench of this Court in **2016(6) CTC 583 (TNPSC Vs. N.Santhi)** wherein at paragraph Nos.18 to 20 the Division Bench has held as follows;

"18. It is well settled that suitability and eligibility have to be considered with reference to the last date for receiving the application, unless of course the Notification calling for Application itself prescribes such date. In the case on hand, no such date was prescribed, but for the educational qualification. Therefore, the last date for submission of application has to be construed as the prescribed date for possession of requisite qualification.

19. It is a settled proposition of law that the Selection process commences on the date when the Applications are invited and any person eligible on the last date of submission of the Application has a right to be considered against the said vacancy provided he fulfils the requisite qualification. Therefore, it is clear that the eligibility has to be considered only on the last of submission of the application. Accordingly, in the instant case, it has to be held that the respondents were eligible to be considered for the post on the last date of submission of Application.

20. The learned Single Judge, after considering the issue threadbare, held that TNPSC had created a confusion by not notifying clearly that the candidate must hold a valid Driving Licence as on the date of Notification and therefore, the respondents are entitled to succeed and accordingly, allowed the writ petitions. We do not find any reason to interfere with the findings of the learned Single Judge."

<https://hcservices.ecourts.gov.in/hcservices/> above said decision is squarely applicable to the facts and circumstance of this case as in this case also the notification did not prescribe any specific cut



off date for possession of technical qualification. Here, in this case, admittedly the appellants wrote their Senior Grade Typewriting examination in the month of August, 2014 and the results were also published and in respect of receipt of certificate alone there was delay, for which they cannot be found fault with. No doubt, the learned senior counsel for the respondent has relied upon number of judgments in support of his contention. There cannot be any quarrel in accepting the said principle. But, so far as the present case is concerned, since no cut of date was fixed / specified for technical qualification and also since the rule is silent in this regard, those judgments cannot be applied to the facts and circumstances of the case.

15. At the risk of repetition, this Court is inclined to submit that in the instant case, since the rule is silent and since no cut of date was fixed for technical qualification, the last date for application should be taken into consideration as the date for acquiring the required technical qualification. The appellants have admittedly obtained their Senior Grade Typewriting Certificates even before the last date for submission of the applications and also applied for the examination even before the date for submission of the applications. They have subsequently passed in the written examinations and also appeared for certificate verification. Based on the interim order of this Court, now they have also participated in the counselling. In view of the above, we are of the view that the order passed by the learned Single Judge cannot be sustained.

16. In the result, these writ appeals are allowed and the order passed by the learned Single Judge is set aside and the first respondent is directed to give appointment to all the appellants in the post of Typist as per their rank within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed."

6. Following the above decisions, this Writ Appeal is allowed. No costs.

Sd/-

Assistant Registrar (CS-II)

/True copy/



To

1. The Secretary, Government of Tamil Nadu,
Personnel and Administration Reforms Department,
Fort Saint George, Chennai-600 009.

2. The Chairman, Tamil Nadu Public Service Commission,
Frazer Bridge Road, V.O.C. Nagar,
Park Town, Chennai-600 003.

+1 CC to M/s.N.DILIP KUMAR, Advocate, SR No. 62904

+1 CC to THE SPECIAL GOVERNMENT PLEADER, SR No. 63145

MYR/IA

PSM/MR-KKR/SAR4/21.07.2017/4P/5C

JUDGMENT MADE IN
W.A. [MD] .No.890 of 2017
30.06.2017