

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.Nos.603 to 606 of 2017
and

W.M.P.Nos.8398, 8400, 8402 and 8404 of 2017

W.A.No.603 of 2017 in WP.No.35048/2012:

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

-vs-

S.Manimegalai ... Respondent/Writ Petitioner

W.A.No.604 of 2017 in WP.No.10101/2014:

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

-vs-

1.G.Barathi

2.The Government of Tamil Nadu,
rep.by its Principal Secretary,
Personnel & Administrative Reforms,
Fort St.George, Chennai-9. ... Respondents/Writ Petitioner/
Respondents

W.A.No.605 of 2017 in WP.No.35050/2012:

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

-vs-

A.Lavanya

... Respondent/Writ Petitioner

W.A.No.606 of 2017 in WP.No.34905/12:

The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
VOC Nagar,
Chennai-600 003.

... Appellant/Respondent

-vs-

A.Kavitha

... Respondent/Writ Petitioner

W.A.No.603 of 2017 filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P.No.35048 of 2012 dated 11.11.2014.

WP.No.35048/2012: For reasons stated in the accompanying affidavit, it is prayed that this Hon'ble court may be pleased to issue a writ of mandamus Directing the respondent to hold a fresh counselling session for the petitioner enabling her to express her choice of a post included in the Combined Subordinate Services Examination - I as an MBC (Women) candidate appropriate to her overall Rank Position (Interview Post) and Rank Position 4997 (Non-Interview Post) mentioned in the Counselling Schedule for 1.12.2012 authorised by the respondent-TNPSC and pass consequential orders in accordance with law and thus render justice.

W.A.No.604 of 2017 filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P.No.10101 of 2014 dated 11.11.2014.

WP.NO.10101/2014: For reasons stated in the accompanying affidavit, it is prayed that this Hon'ble court may be pleased to issue a writ of mandamus or any other appropriate writ or order or Direction in the nature of a writ calling for records relating to the 1st respondent order made in memorandum 6207/OTD-B2/2010 dated 26.9.2013 to quash the same and consequently direct the respondents to consider the claim of the petitioner for appointment to any one of the post included in the Combined Subordinate Services Examination II 2009-2011 forthwith and to extend all benefits both service and monetary and to pass such further or other order as this Hon'ble court may deem fit and proper in the circumstances of the case and thus render justice.

W.A.No.605 of 2017 filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P.No.35050 of 2012 dated 11.11.2014.

WP.NO.35050/2012:For reasons stated in the accompanying affidavit, it is prayed that this Hon'ble court may be pleased to issue a writ of mandamus Directing the respondent to hold a fresh counselling session for the petitioner enabling her to express her choice of a post included in the Combined Subordinate Services Examination - I as an MBC (Women) candidate appropriate to her overall Rank Position for 7945 (Interview Post) and Rank Position 5019 (Non-Interview Post) mentioned in the Counselling Schedule for 1.12.2012 authorised by the respondent-TNPSC and pass consequential orders in accordance with law and thus render justice.

W.A.No.606 of 2017 filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P.No.34905 of 2012 dated 11.11.2014.

WP.No.34905/2012:For reasons stated in the accompanying affidavit, it is prayed that this Hon'ble court may be pleased to issue a writ of mandamus or any other appropriate writ or order or Direction in the nature of a writ Directing the respondent to call the petitioner for counseling to Non Interview post in the MBC/DC Women Quota pursuant to Provisional List of candidates admitted for counseling to non-interview posts on 20.11.2012 and Provisional Mark List of last selected candidate in each communal category for each post codewise published on 10.12.2012 included in Combined Subordinate Services Examination 2009-2011 and to grant such further or other relief's as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and render justice.

For Appellant in all WAs :: Mr.M.Loganathan

For Respondents :: Mrs.Dakshayani Reddy for
respondent in W.A.Nos.603 and
605 of 2017

No appearance for R1 in
W.A.No.604 of 2017

Mr.P.S.Sivashanmugasundaram,
Spl.GP for R2 in W.A.No.604/2017

No appearance for respondent
in W.A.No.606 of 2017

COMMON JUDGMENT

(Delivered by HULUVADI G.RAMESH, J.)

The respondent in W.A.Nos.603, 605 and 606 of 2017 and the first respondent in W.A.No.604 of 2017 have approached this Court by filing writ petitions in W.P.Nos.35048, 35050, 34905 of

2012 and 10101 of 2014, respectively. They have sought for appointment to any of the posts included in the Combined Subordinate Services Examination-I, 2009-2011 forthwith and to extend all benefits both service and monetary. The above four writ petitions were taken up with another two writ petitions.

2.It was submitted before the learned single Judge by the respective counsel for the incumbents herein, that they have got more marks than the last of the candidate selected and in view of the same, they have to be called for reinterview and thereafter, oral test. However, they were not considered on the ground that they did not reach the cut-off marks for the interview post. It was contended that the candidates, who have secured less marks than the incumbents herein, were selected for the interview post under the same category.

3.In an earlier order passed in W.P.Nos.14410 & 14411 of 2014 and 8069 of 2014 dated 27.06.2014 in respect of similarly situated persons like that of the incumbents herein, this Court ordered as follows:

"13.In the result, all the writ petitions are allowed. The Tamil Nadu Public Service Commission, as undertaken before this Court, shall call the petitioners soon for Certificate Verification, select them if they satisfy all the other requirements and appoint them as Assistants in any one of the Departments enumerated under Clause 19 of the Prospectus. The said exercise shall be completed within eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed."

Following the same, this Court, by a common order, allowed the writ petitions on the very same terms, since the incumbents herein have secured more cut-off marks for the interview post and the facts involved in W.P.Nos.14410 & 14411 and 8069 of 2014, dated 27.06.2014 are similar to the facts involved in the said writ petitions.

4.Challenging the said common order, in respect of the incumbents herein, Tamil Nadu Public Service Commission has come up with these appeals.

5.The grounds raised in the writ appeals are that the common order passed by the learned single Judge dated 11.11.2014 which is under challenge, is conflicting with the order dated 06.11.2014 made in W.P.(MD)No.7396 of 2013 which is relatable to the issue on hand and therefore, the matter has to be resolved only in the writ appeals. Another ground raised is that out of two vacancies available under the category of MBC/DC (Women), one vacancy has to be kept vacant as per the common interim order passed by this Court in M.P.(MD)Nos. 2, 3, 1, 1 & 1 & 2 in W.P.(MD)Nos.13136, 14369, 14370 and 13491 of 2014 filed by one P.Kousalya Devi, S.Manimegalai, P.Gomathinayagam and S.Suresh

Rathinakumar and for the other vacancy, one Vidhya has to be summoned for the next phase of counselling as per the orders passed by this Court in W.P.(MD)Nos.13136, 14369, 14370 and 13491 of 2014. It is also stated that the rank position of G.Bharathi is 1124 under the category of BC (General), but only 20 vacancies are available under the said category. Reiterating the grounds raised in the writ appeals, the learned counsel for the appellant prayed that the impugned common order in respect of the incumbents herein, have to be set aside.

6.The learned counsel for the respondent in W.A.Nos.603 and 605 of 2017 has submitted that each of the respondents in W.A.Nos.603 of 2017 and 605 of 2017 have secured 229.50 marks and their rank positions are 3rd and 6th respectively, but the candidates having secured 211 marks have been accommodated. Further, in the earlier order passed by this Court in W.P.Nos.14410 & 14411 of 2014 and 8069 of 2014 dated 27.06.2014 in respect of similarly situated persons like that of the incumbents herein, only after acknowledging the counter affidavit filed by the Tamil Nadu Public Service Commission, this Court has given directions to accommodate them and only relying upon the said decision, the learned single Judge has passed the impugned common order and hence the same does not require any interference.

7.There is no representation for the first respondent in W.A.No. 604 of 2017 and the respondent in W.A.No.606 of 2017.

8.Heard the learned counsel for the appellant as well as the learned counsel for the respondents in W.A.Nos.603 and 605 of 2017 and perused the materials available on record.

9.It appears that the respondents in W.A.Nos.603 and 605 of 2017 have scored marks more than the last of the candidates selected in the general category. It also appears that out of two of some other candidates who have secured 229.50 marks, one has been selected and the other has not been selected on the ground that the earlier person is senior in age. Further, it is seen that only relying upon the counter affidavit filed by Tamil Nadu Public Service Commission in the earlier order passed in W.P.Nos.14410 & 14411 of 2014 and 8069 of 2014 dated 27.06.2014 in respect of similarly situated persons like that of the respondents in W.A.Nos.603 and 605 of 2017, the impugned order was passed. The learned counsel for Tamil Nadu Public Service Commission has submitted that the person who secured 211 marks has been accommodated in the General Merit Category. If that be so, necessarily the respondents in W.A.Nos.603 and 605 of 2017 have to be accommodated by shifting them to the General Merit Category as a matter of proper arrangement. When candidates in the special category gets more marks than the candidates in the general merit category, they have to be shifted to the general merit category. That exercise has not been done. Further, when already relief has been granted to the similarly situated

persons like that of the respondents in W.A.Nos.603 and 605 of 2017 herein, which has been admitted by Tamil Nadu Public Service Commission in the counter affidavit filed before the learned single Judge, the respondents in W.A.Nos.603 and 605 of 2017 are also entitled to the same relief, as held by the learned single Judge in the impugned common order.

10.But it appears that the first respondent in W.A.No.604 of 2017 and the respondent in W.A.No.606 of 2017 have scored lesser marks than the last candidates, who have been selected.

11.Hence, the respondents in W.A.Nos.603 and 605 of 2017 are entitled for the same relief as held by the learned single Judge in the impugned order. However, as against the first respondent in W.A.No.604 of 2017 and the respondent in W.A.No.606 of 2017, who have admittedly scored lesser marks, are not entitled for the relief and hence W.A.Nos.603 and 605 of 2017 are dismissed, while W.A.Nos. 604 and 606 of 2017 are allowed. No costs. Consequently the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

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

2.The Principal Secretary to Government,
Government of Tamil Nadu,
Personnel & Administrative Reforms,
Fort St.George, Chennai-9.

+1cc to Government Pleader SR.No.23978

+2cc to Mr.D.Dakshayani Reddy, Advocate SR.No.24045, 24046

SJ(CO)

sm:2.7.2018

W.A.Nos.603 to 606
of 2017
and
W.M.P.Nos.8398, 8400,
8402 and 8404 of 2017