

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2018

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Writ Petition Nos.22934 of 2015, 6283 & 6284 of 2016
and
M.P.No.1 of 2015
&
W.M.P.Nos.5592 & 5593 of 2016

W.P.No.2394 of 2015

E.Ezhilarasi ... Petitioner

Vs.

The Tamil Nadu Public Service Commission
Rep by its Secretary,
Frazer Bridge Road,
VOC Nagar, Park Town,
Chennai-3.

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondent to permit the petitioner to participate in the forth coming counselling for the post of typist in notification No18/14 Advertisement No.401/14 Dated.14.10.14.

For Petitioner : Mr.P.Vijendran
For Respondent : Dr.M.Devendran

W.P.No.6283 of 2016

P.Vimala ... Petitioner

Vs.

1.The Tamil Nadu Public Service Commission
Rep by its Secretary,
Frazer Bridge Road,
VOC Nagar, Park Town,
Chennai-3.

2.The Tamil Nadu Public Service Commission
Rep by its Under Secretary,
Frazer Bridge Road,
VOC Nagar, Park Town,
Chennai-3.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records pertaining to the Memorandum No.4664/PSD-A3/2015 dated 30.12.15 issued by the second respondent and quash the particular portion of order i.e.He/She informed that his /her application has been admitted provisionally and his/her result has been withheld subject to final outcome of WP filed by him/her and consequently direct the respondents to refer the petitioner's name to the Government / HOD concern for issuance of appointment order for the post of typist pursuant to notification No.18/14 Advertisement No.401/14 Dt.14.10.14.

For Petitioner : Mr.P.Chellapandian
For Respondents: Dr.M.Devendran

W.P.No.6284 of 2016

E.Ezhilarasi ... Petitioner
Vs.

1.The Tamil Nadu Public Service Commission
Rep by its Secretary,
Frazer Bridge Road,
VOC Nagar, Park Town,
Chennai-3.

2.The Tamil Nadu Public Service Commission
Rep by its Under Secretary,
Frazer Bridge Road,
VOC Nagar, Park Town,
Chennai-3.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records pertaining to the Memorandum No.4664/PSD-A3/2015 dated 30.12.15 issued by the second respondent and quash the particular portion of order i.e.He/She informed that his /her application has been admitted provisionally and his/her result has been withheld subject to final outcome of WP filed by him/her and consequently direct the respondents to refer the petitioner's name to the Government / HOD concern for issuance of appointment order for the post of typist pursuant to notification No.18/14 Advertisement No.401/14 Dt.14.10.14.

For Petitioner : Mr.P.Chellapandian
For Respondents: Dr.M.Devendran

C O M M O N O R D E R

The relief sought for in respect of W.P.No.22934 of 2015 is for a direction to direct the respondents to permit the petitioners to participate in the forthcoming counselling for the post of Typist in notification No.18/14 Advertisement No.401/14 dated 14.10.2014 and in respect of W.P.Nos.6283 & 6284 of 2016 is to call for the records pertaining to the Memorandum No.4664/PSD-A3/2015 dated 30.12.15 issued by the second respondent and quash the particular portion of order i.e.He/She informed that his /her application has been admitted provisionally and his/her result has been withheld subject to final outcome of WP filed by him/her and consequently direct the respondents to refer the petitioner's name to the Government / HOD concern for issuance of appointment order for the post of typist pursuant to notification No.18/14 Advertisement No.401/14 Dt.14.10.14.

2.The learned counsel appearing on behalf of the writ petitioners made a submission that the counsellings were already concluded and the appointments alone are to be made. At that point of time the petitioners were prevented from joining duty as Typist.

3.The learned counsel appearing on behalf of the respondents now brought to the notice of this court that the Hon'ble Division Bench of this Court passed an order on 10th April 2017 allowing the claim of the similarly placed persons in W.A.(MD) Nos.5,20,82 and 131 of 2017 and the Hon'ble Division Bench passed the following orders in paragraph Nos.13,14,15 and 16 of the Judgment :

"In this regard, a reference could be placed to a recent decision of a Division Bench of this court in 2016(6)SCC 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 the 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 thereadbare, 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."

14. The above said decision is squarely applicable to the facts and circumstances 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 off 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 off 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."

4. In view of the fact that the Hon'ble Division Bench allowed the Writ Appeals in respect of the similar issue, this court is bound to follow the said decision rendered by the Hon'ble Division Bench.

5. Accordingly, all these Writ Petitions stands allowed. Consequently, connected miscellaneous petitions are closed. However, there is no order as to costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

may
To

1. The Secretary,
The Tamil Nadu Public Service Commission
Frazer Bridge Road,
VOC Nagar, Park Town, Chennai-3.

2. The Under Secretary,
The Tamil Nadu Public Service Commission
Frazer Bridge Road,
VOC Nagar, Park Town, Chennai-3.

+2 ccs to Dr.M.Devandran Advocate sr 35722

+1 cc to Mr.P.Vijendran Advocate sr 35377

W.P.Nos.22934 of 2015, 6283 & 6284 of 2016

aa12/06/2018