

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.07.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.36081 to 36084 & 37268 of 2015

and

M.P.Nos.1, 1, 1 & 1 of 2015

and

W.M.P.Nos.12500 to 12503 of 2016

M.Purushothaman .. Petitioner in W.P.No.36081 of 2015
K.Venkidesan .. Petitioner in W.P.No.36082 of 2015
V.Punniyakotti .. Petitioner in W.P.No.36083 of 2015
S.Kamalakannan .. Petitioner in W.P.No.36084 of 2015
M.Praveen .. Petitioner in W.P.No.37268 of 2015

vs.

The Tamil Nadu Public Service Commission,
Rep. By its Secretary,
Frazer Bridge Road,
VOC Nagar, Park Town,
Chennai - 600 003.

.. Respondent in all W.Ps.

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent to consider for the appointment of the petitioner for the post of Typist in pursuant the notification No.18/14 by the respondent under Advertisement No.401/14, dated 14.10.2014 respectively.

For Petitioner
in all W.Ps.

: Mr.P.Pandiyaraj

For Respondent
in all W.Ps.

: Dr.M.Devendran

C O M M O N O R D E R

The relief sought for in these writ petitions, is for a direction to direct the respondent to consider for the appointment of the petitioner for the post of Typist in pursuant the notification No.18/14 by the respondent under Advertisement No.401/14, dated 14.10.2014.

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 stand allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

nmm/stm

To

The Tamil Nadu Public Service Commission,
Rep. By its Secretary,
Frazer Bridge Road,
VOC Nagar, Park Town,
Chennai - 600 003.

+1cc to Mr.M.DEVENDRAN, Advocate, S.R.No.44369
+5cc to Mr.P.PANDIYARAJ, Advocate, S.R.No.44145

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TR(20/07/2018)

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