

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.18100 & 18113 of 2019
and WMP Nos.17482, 17483,17484 ,17473, 17474 & 17475 of 2019

R.Sudhagar ... Petitioner in WP No.18100 of 2019

S.Balasundaran ... Petitioner in WP No.18113 of 2019

Vs.

1. The Tamil Nadu Public Service Commission,
Rep.by its Secretary,
No.3, Frazer Bridge Road,
V.O.C.Nagar, Chennai 600 005.

2. The Government of Tamil Nadu,
Rep by its Secretary to Government,
Personnel and Administrative Reforms Department,
Fort St. George,
Chennai 600 009

... Respondents in both WPs

COMMON Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the impugned notification No.19 of 2019 dated 07.06.2019 passed by the 1st respondent and quash the same and consequently, direct the 1st respondent to appoint the petitioners in appropriate posts for the vacancies that have arise due to non-joining / joining and leaving of interested candidates in pursuance of Notification No.9 of 2013 dated 14.06.2013 issued by the 1st respondent.

For Petitioner : Mr.C.Ganesh Pandian
in both WPs
For Respondents : Mr.M.Devendran for R1
in both WPs Mr.R.S.Selvam for R2

O R D E R

By consent, these writ petitions are taken up for final disposal at the admission stage itself.

2. The case of the petitioners is that the petitioners were participated in the examination conducted by the 1st respondent in pursuance to Notification No.9 of 2013, for Group IV Services (Direct Recruitment) which includes the posts of Junior Assistant (Non Security), Junior Assistant (Security), Bill Collector Grade I, Typist, Steno Typist Grade III. Field Supervisor and Draftsman. The total number of vacancy is 5566. The petitioners were called for counseling on 25.03.2014. However, to the shock and surprise of the petitioners, the 1st respondent without even verifying whether all the 5,566 persons called for the interview have been attended the counselling, ended the counselling process, despite eligible candidates being available. The grievance now expressed by the petitioners is that there are vacancies due to non-availability of selected candidates or leaving after joining the post by the Candidates and these vacancies would naturally be given to the persons who are in the next merit list. The respondent without even filling up the total vacancy, has published fresh notification every year for Group IV Service. Challenging the said notification Np/19/2019 be illegal, the petitioners filed these writ petitions before this Court.

3. The learned counsel for the petitioners submitted that the petitioners are eligible to be appointed to the vacancy arising due to non-joining / joining and leaving of selected candidates in pursuance to notification No.9 of 2013 dated 14.06.2013 and prays for appropriate orders.

4. The learned counsel appearing for the respondents has drawn the attention of this Court to the counter affidavit filed by them and it is relevant to extract paragraph No.3, 4, 5, 6, 7, 8 as under :-

3. In this connection, it is humbly submitted that the counselling details for the post of Junior Assistant, Typist, Steno Typist Grade III included in the said recruitment as detailed below :-

Junior Assistant

Phase	Date of CV/Counselling	Total no. of Vacancies	No. of Vacancies filled	Remaining Vacancies	Carried forward vacancies
I	24.03.2014 to 07.05.2014	3794	3523	181	---
II	16.06.2014 to 18.06.2014	181	165	16	---
III	18.08.2014 to 23.08.2014	16	15	1	---
IV	29.10.2014	1	1	nil	---
V	11.06.2015	1	1	---	---

TYPIST

Phase	Date of CV/Counselling	Total no. of Vacancies	No. of Vacancies filled	Remaining Vacancies	Carried forward vacancies
I	19.06.2014 to 05.07.2014	1877	1595	282	---
II	18.08.2014 to 20.08.2014	282	225	57	---
III	29.10.2014 to 31.10.2014	57	36	21	---
IV	08.06.2015 to 09.06.2015	21	3	Nil	18 (PH Vacancy)

STENO TYPIST

Phase	Date of CV/Counselling	Total no. of Vacancies	No. of Vacancies filled	Remaining Vacancies	Carried forward vacancies
I	21.08.2014 to 23.08.2014	347	155	192	Nil
II	30.10.2014 to 01.11.2014	192	79	113	Nil
III	09.06.2015 to 10.06.2015	115	76	39	39 (Carried forward vacancies)

4. It is respectfully submitted that for the post of Junior Assistant, typist and Steno-Typist Grade II the selection was made through counselling method. Candidates were called for the above phases of counselling based on the overall rank following rule of reservation of appointment and vacancies notified. For the post of Junior Assistant, Typist and Steno Typist Grade III, the selected candidates were

allotted for more than 350 department/Units and each units have separate orders.

5. Further, submitted that notification No.18 / 2014 for the same posts included in Group IV for the years 2014-2015 was subsequently issued on 14.10.2014 and written examination was held on 21.12.2014. The result was published on 22.05.2015. The last phase of counselling for the previous recruitment to the said posts for the year 2013 - 2014 were as follows :-

(i) Junior Assistant - V Phase counselling conducted on 11.06.2015.

(ii) Typist - Iv Phase counselling conducted on 09.06.2015.

(iii) Steno-typist grade III - III Phase counselling conducted on 10.06.2015.

to fill up the vacancies which were not filled up due to paucity of candidates in the previous phases of counselling for the recruitment pertaining to Group IV 2013-14 in which the petitioners were not selected for the above counselling. In the circumstances, the question of operating the reserve list does not arise.

6. In this connection, it is respectfully submitted that the counselling particulars for the post of Junior Assistant, Typist, Steno Typist for the said 2014-2015 relating to the said notification is detailed below :-

Junior Assistant

Phase	Date of CV/Counselling	Total no. of Vacancies	No. of Vacancies filled	Remaining Vacancies	Carried forward vacancies
I	16.11.2015 to 01.12.2015 and 15.12.2015	3073	2582	491	Nil
II	09.08.2016 to 12.08.2016	491	463	28	---
III	22.02.2017	159	139	2	18
IV	05.06.2017	2	1	1	--
V	12.10.2017	1	0	1	--
VI	28.02.2018	1	1	0	--

TYPIST

Phase	Date of CV/Counselling	Total no. of Vacancies	No. of Vacancies filled	Remaining Vacancies	Carried forward vacancies
I	16.12.2015 to 28.12.2015	1693	1378	315	Nil
II	15.06.2015 to 17.06.2015	315	291	24	---
III	23.02.2017	24	7	2	15 (PH Vacancy)
IV	16.06.2017	2	2	nil	---

STENO TYPIST

Phase	Date of CV/Counselling	Total no. of Vacancies	No. of Vacancies filled	Remaining Vacancies	Carried forward vacancies
I	14.12.2015	388	132	256	Nil
II	20.07.2016 to 21.07.2016	256	207	49	---
III	24.02.2017	73	31	42	42

The rules relating to the operation of the Reserve list are as follows :

7. It is humbly submitted that the rule 15A of then Tamil Nadu State and subordinate service rules now incorporated as Section 3 (U) Tamil Nadu Government Servants (Conditions of service) Act, 2016 reads as :

"Reserve list means a list which is prepared so as to contain not less than twenty five percent of the candidates of each reservation group including general turn in the regular list is drawn up subsequently". In this section the definition of reserve list and validity of Reserve list is stated. But in this section it is not specifically insisted to draw reserve list for direct recruitment.

8. It is further respectfully submitted that in Group services for example in Group II interview posts various posts in various departments / units with

different scale of pay have been notified. In Group II / Group IIA non interview posts / Group IV services / VAO, single post viz., Assistant / Junior Assistant/Typist / Steno Typist Grade III with multiple departments and units are included. In the counselling method based on merit (overall rank), following rule of Reservation of appointment, vacancies, qualification etc the candidates are summoned in the ratio of 1:2/1:3. The candidates (top rankers) who have attended on the first or second day of counselling opt the post in the Departments like Transport, Registration and Commercial Tax etc., and with higher scale of pay / grade pay of the department /unit as they wish. But the candidates who come later opt other posts / Departments viz. police, judicial, stationery & printing etc since the vacancies in Departments like Transport, Registration, Commercial Tax are already filled.

5. This Court is of the considered view that admittedly the petitioner participated the selection in the year 2013 and the notification was issued in the year 2013 and subsequently, several notifications were issued. The petitioners without challenging the subsequent notifications has filed these writ petitions challenging the current Notification No.19 of 2019 dated 07.06.2019 without any proper explanation, is unsustainable and accordingly, these writ petitions are dismissed. No costs. Consequently, all the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

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To

1. The Secretary,
Tamil Nadu Public Service Commission,
No.3, Frazer Bridge Road,
V.O.C.Nagar, Chennai 600 005.

2. The Secretary to Government,
Government of Tamil Nadu,
Personnel and Administrative Reforms Department,
Fort St. George,
Chennai 600 009

+1cc to Government Pleader SR.NO. 92497
+1cc to Mr.M.Devendran, Advocate sr.91615
+2cc to Mr.C.Ganesh Pandian, Advocate sr.91865

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