

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.07.2020

DELIVERED ON : 18.08.2020

CORAM :

THE HON'BLE MR.A.P.SAHI, THE CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A.NOS.509, 445 AND 501 OF 2020

AND C.M.P.NOS.7861, 7863, 7864, 7877, 7892, 7417, 7418, 7419,
7461, 7463, 7475, 7476, 7797, 6834, 7363, 7416, 7798, 7839, 7853
AND 8490 OF 2020

W.A.No.509 of 2020

1.R.Vijiyaraj
2.V.Punniakotti
3.M.Shanmugam

.... Appellants

-vs-

1.D.Gautham
2.R.Manoj Prabahar

3.The State of Tamil Nadu,
Rep. by Secretary to Govt.,
Transport Dept., Fort St. George,
Chennai 600 009.

4.The Controller of Examinations,
Tamil Nadu Public Service Commission,
TNPSC Road, V.O.C. Nagar,
Park, Town, Chennai 600 003.

5.Tamil Nadu Public Service Commission,
Rep. by the Secretary,
TNPSC Road, V.O.C. Nagar,
Park Town, Chennai 600 003.

6.The Transport Commissioner,
Transport Dept., Ezhilagam,
Chepauk, Chennai 600 005.

7.G.Vigneswari
8.S.Senthil Kumaran Bose
9.N.Kubendiran

10.R.Venkatagiri
11.J.Dhineshkumar
12.I.Sivanatarajan
13.S.Radhakrishnan
14.V.Srinivasan
15.U.Sakthivel
16.M.Mohamed Adhil
17.M.Vignesh
18.A.Sait Abdul Kareem
19.R.Gobinath
20.M.Govan Dhas
21.R.Ravi
22.K.Dharmalingam
23.E.Sathiyamoorthi
24.S.Vinish
25.A.Raja Mohamed
26.N.Venkatraman
27.M.Jayakrishna
28.B.Prasanna Raja
29.S.Lakshmanan
30.J.Ravisankar
31.M.Guna
32.P.Varadharajan
33.N.Vaithi
34.N.Sasikumar
35.S.Abdul Munaf

..... Respondents

W.A.No.445 of 2020

1.R.Venkatagiri
2.A.Sait Abdul Kareem
3.M.Govan Dhas
4.E.Sathiyamoorthi
5.S.Vinish
6.A.Raja Mohamed
7.N.Venkatraman
8.M.Jayakrishna
9.B.Prasanna Raja
10.S.Lakshmanan
11.J.Ravisankar
12.N.Vaithi
13.N.Sasikumar
14.S.Abdul Munaf

..... Appellants

-vs-

1.D.Gautham
2.R.Manoj Prabahar

3. The State of Tamil Nadu,
Rep. by Secretary to Govt.,
Transport Dept., Fort St. George,
Chennai 600 009.
4. The Controller of Examinations,
Tamil Nadu Public Service Commission,
TNPSC Road, V.O.C. Nagar,
Park, Town, Chennai 600 003.
5. Tamil Nadu Public Service Commission,
Rep. by the Secretary,
TNPSC Road, V.O.C.Nagar,
Park Town, Chennai 600 003.
6. The Transport Commissioner,
Transport Dept., Ezhilagam,
Chepauk, Chennai 600 005.
7. J.Kalaiselvan,
8. M.Dinesh Kumar,
9. N.Aravindan,
- 10.S.Easwaramoorthy,
- 11.V.Gopi,
- 12.M.Dhinesh Kumar,
- 13.S.Vasudevan,
- 14.P.Balu,
- 15.D.Arun,
- 16.B.Kokila,
- 17.S.Rajasekar,
- 18.C.Ramesh,
- 19.E.Pooveandan,

RR7 to 19 impleaded as party respondent vide order
of court date 10.09.2020 made in CMP.No.7416 of 2020
in WA.No.445 of 2020 (APSCJ and SKRJ)

20.T.Balji

R20 impleaded as party respondent vide order of
court date 10.09.2020 made in CMP.No.7417 of 2020
in WA.No.445 of 2020 (APSCJ and SKRJ)

..... Respondents

W.A.No.501 of 2020

- 1.M.Vignesh
- 2.P.Varadharajan
- 3.I.Sivanatrajan

4.V.Srinivasan
5.S.Radhakrishnan
6.M.Mohamed Adil
7.S.Senthil Kumaran Bose
8.R.Gobinath
9.J.Dinesh Kumar
10.M.Guna

.... Appellants

-vs-

1.D.Gautham
2.R.Manoj Prabahar

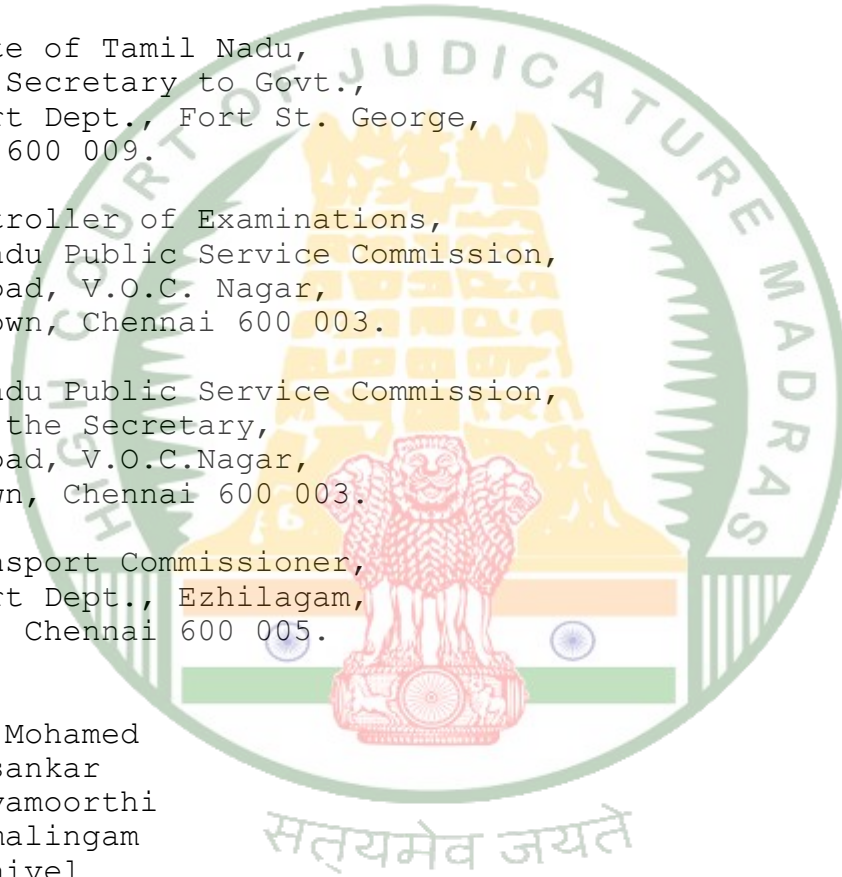
3.The State of Tamil Nadu,
Rep. by Secretary to Govt.,
Transport Dept., Fort St. George,
Chennai 600 009.

4.The Controller of Examinations,
Tamil Nadu Public Service Commission,
TNPSC Road, V.O.C. Nagar,
Park, Town, Chennai 600 003.

5.Tamil Nadu Public Service Commission,
Rep. by the Secretary,
TNPSC Road, V.O.C.Nagar,
Park Town, Chennai 600 003.

6.The Transport Commissioner,
Transport Dept., Ezhilagam,
Chepauk, Chennai 600 005.

7. R.Ravi
8. A.Raja Mohamed
9. J.Ravisankar
10.E.Sathyamoorthi
11.K.Dharmalingam
12.U.Sakthivel
13.N.Vaithi
14.R.Vijayaraj
15.N.Kubendiran
16.M.Shanmugam
17.V.Punnikotti
18.G.Vigneshwari
19.R.Venkatagiri
20.A.Sait Abdul Kareem
21.M.Govan Dhas
22.S.Vinish
23.N.Venkatraman
24.M.Jayakrishna



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25.B.Prasanna Raja
26.S.Lakshmanan
27.N.Sasikumar
28.S.Abdul Munaf
29.J.Kalaiselvan
30.M.Dinesh Kumar,
31.N.Aravindan,
32.S.Easwaramoorthy,
33.V.Gopi,
34.M.Dhinesh Kumar,
35.S.Vasudevan,
36.P.Balu,
37.D.Arun,
38.B.Kokila,
39.S.Rajasekar,
40.C.Ramesh,
41.E.Pooveandan,

(RR29 to 41 impleaded as party respondent vide order of court date 10.09.2020 made in CMP.No.7419 of 2020 in WA.No.501 of 2020 (APSCJ and SKRJ))

..... Respondents

Appeals filed under Clause 15 of the Letters Patent against the order dated 24.01.2020 made in W.P.No.23670 of 2019 on the file of this Court.

W.P.No.23670 of 2019:-

Calling for the records of the Tamil Nadu Public Service Commission (TNPSC) the 3rd respondent in List - OT (Oral Test) containing the list of registration numbers of 33 candidates prepared by the 2nd respondent dated 15/07/2019 who have been provisionally admitted to the oral test for appointment by direct recruitment to the post of Motor vehicle Inspector Grade - II in the Tamil Nadu Transport Subordinate service 2013 -2018 pursuant to Notification No.03/2018 dated 14/02/2018 issued by the 3rd respondent and quash the same and consequently direct the 3rd respondent to call 226 candidates for oral test based on the marks obtained by the candidates in the written examination conducted on 10.06.2018 and thereafter conduct certificate verification for direct recruitment of 113 candidates to the post of Motor Vehicle Inspector Grade II in the Tamil Nadu Transport Subordinate Service pursuant to notification No 03/2018 issued by the 3rd Respondent.

For Appellants : Mr.G.Sankaran
in WA.509/2020

in WA.501/2020 : Mr.R.Viduthalai,
Sr. Counsel
for M/s.Kalyani Kailasam

in WA 445/2020 : Mr.Ajmal Khan,
Sr. Counsel
for M/s.Ajmal Associates

For Respondents : Mrs.Nalini Chidambaram
for R-1 in all appeals
: Mr.Vijay Narayan
Advocate General
assisted by Mr.V.Jayaprakash
Narayanan, State G.P.,
for RR 3 and R6
: M/s.C.N.G.Niraimathi
Stdg. Counsel for TNPSC
RR 4 and 5

For Impleading
Petitions : Mr.B.Vijay
in CMP.7861/2020

in CMP.7863, 7864 and : Mr.N.K.Ponraj
7798/2020

in CMP.7877 and 7797 : Mr.P.Srinivas
of 2020

in CMP.7892 of 2020 : Mr.AR.L.Sundaresan,
Sr.Counsel
for M/s.AL.Gandhimathi

in CMP.7417, 7418, : Mr.N.Subramaniyan
7419, 7416 and 7853 of
2020

in CMP.7463 and 7839 : Mr.J.Chelladurai Caldwell
of 2020

For CMP.8490 of 2020 : Mrs.Selvi George
For one unnumbered : Mr.U.Karunakaran
impleading petition

COMMON JUDGMENT

The Hon'ble Chief Justice

These writ appeals arise out of a common judgment dated 24.01.2020, whereby a learned single Judge has interfered with the selection process of the selections in respect of Motor Vehicles Inspectors Grade-II, the direct recruitment whereof has been held by the Tamil Nadu Public Service Commission, pursuant to an advertisement issued in this regard. The learned single Judge has found that the selection process was vitiated, but in view of the interregnum suggestions given to improve upon the defaults, the process, as suggested in the memo filed by the Transport Commissioner, deserved to be accepted and applied in order to complete the selection process. The learned single Judge has further found that all the 1328 candidates, who had qualified in the written examination should be allowed participation and for that, the scrutiny in respect of 1328 candidates were to be carried out, whereafter oral test would be held. The learned single Judge, therefore, finally evolved a method and disposed of the writ petition with the directions, which are contained in paragraph 44 of the impugned judgment, to finalise the selection process. The learned single Judge, however, found that the select list of the 32 candidates, who had been projected as the only eligible candidates, would stand effaced. Thus, the selections of the 32 candidates were set aside and the entire process from the stage as directed was to be undertaken by the respondents with certain relaxations in the certificate of experience as unfolded later on in the narration.

2. It is those selected candidates whose results have been effaced, in effect quashed, have filed these appeals contending that since they were the only eligible candidates and since no other candidate was found eligible on the scrutiny and verification of certificates, therefore, the selections of these 32 candidates could not have been set aside. It was further urged that the balance of the vacancies still continue to exist and therefore, it was not necessary to set aside the entire selection process, which could have been modified with any direction pertaining to the claim of the unsuccessful candidates. Accordingly, the appeals have been filed praying for setting aside the impugned judgment and for a direction to restore the selections already held insofar as the appellants are concerned.

3. The litigation has a chequered history, in the sense that many intervening orders were passed, which have a direct impact on the entire chronology of events. However, in order to lay down the minimum labyrinth of facts for the purpose of the present controversy, it would be pertinent to mention that these

selections are for the post of Motor Vehicles Inspectors Grade II under the Tamil Nadu Transport Subordinate Service. These posts are to be filled up by direct recruitment and the appointing authority of these posts is the Joint Transport Commissioner. The Tamil Nadu Subordinate Service provides for the prescription of qualifications, which is contained in Clause 5(b)(2) thereof. An advertisement was issued being Advertisement No.489, dated 14.02.2018, inviting on-line applications, for filling up 113 vacancies. The advertisement was issued by the Tamil Nadu Public Service Commission, which indicated that the selection would be comprised of a written examination followed by an oral test to be intervened by the process of certificate verification in respect of the prescribed qualifications. Pursuant to the advertisement, the appellants and the other candidates applied, for which the written examination was conducted on 10.06.2018. The certificates of driving experience and the validity of driving licences were also scrutinised before the conduct of the written examination.

4. However, the Commission, during the scrutiny of applications, noticed that in certain driving licences, the previous expiry date was not mentioned and therefore, its validity was doubtful, which deserved verification. The details of 1324 candidates were sent to the office of the Transport Commissioner on 31.08.2018 for ascertaining the validity of the driving licences and genuineness of the experience certificate possessed by those candidates. The details of the balance of the four candidates were sent vide letter dated 27.09.2018, indicating the aforesaid exercise, whereby a report in respect of the certificates of all the 1328 candidates were called for.

5. It appears that thereafter, no provisional list appears to have been uploaded on the website and the verification process was continued by the Transport Department through its officials. This is evident from the letter dated 30.10.2018, whereby the workshop experience certificate of the candidates was called for.

6. On 18.01.2019, a letter was despatched, after seeing some of the verification reports, by the Transport Commissioner to the Joint Transport Commissioners and the Deputy Transport Commissioners, to physically verify and confirm the status and genuineness of the work experience and the driving licences.

7. One female candidate came forward to file a writ petition before the High Court being W.P.No.17784 of 2019 alleging that her certificates had been verified, yet, the respondent Transport authorities were malafidely not permitting her to attend the certificate verification and oral test to be conducted and therefore, a mandamus was prayed for that the

verification reports, upon verifying the driving experience and workshop experience of the petitioner, be sent for further processing of the selection.

8. On 15.07.2019, a list containing only the register numbers of the provisionally admitted 33 candidates to the oral test was published by the Tamil Nadu Public Service Commission informing that the oral test would be held on 05.08.2019.

9. The unsuccessful candidates challenged the said list, which did not contain the names of the selected candidates by filing 12 other writ petitions over and above the one mentioned hereinbefore. Other writ petitions also followed suit that were clubbed together and a common counter affidavit came to be filed on behalf of the Transport Department contesting the said claims and bringing on record the entire exercise of the verification of the certificates that was carried out for the purpose of declaring the list of 33 candidates.

10. On 30.07.2019, an interim order was passed directing the Tamil Nadu Public Service Commission to call the unsuccessful petitioners for the oral test that were scheduled to be held on 05.08.2019, but directed that their results shall be kept in sealed covers until further orders.

11. On 01.08.2019, the interim order was again modified to the extent that the oral test that was to take place on 05.08.2019 shall be confined to the 33 candidates, who had been declared selected, but their results shall not be published by the Commission till the final decision is taken by the Court.

12. On 26.08.2019, the matter was again heard and a further order was passed to publish the tentative list of eligible candidates before certificate verification without mentioning the marks obtained by individual candidates in order to provide clarity for the eligibility of the candidates to the next stage of selection. The Court observed that the certificate verification process carried out by the Transport Commissioner was not in consonance with the procedure contemplated in the notification. Ultimately, by the said interim order, it was directed to announce the list of eligible candidates on the basis of marks obtained by them in the written examination, without disclosing the individual marks of each of the candidates. The Commission was directed to publish the tentative list under the aforesaid orders.

13. Challenging the said interim directions, the Tamil Nadu Public Service Commission filed W.A.No.3261 of 2019, where, an interim order came to be passed on 14.10.2019, whereby the order dated 26.08.2019 passed by the learned single Judge was stayed.

14. The said writ appeal, however, came up for final hearing on 22.10.2019, whereby, while finally disposing of the appeal, it was observed that paragraphs 6 and 7 of the order of the learned single Judge dated 26.08.2019 shall not be given effect to and status quo regarding appointments shall be maintained till all the writ petitions are disposed of.

15. It is in this background that a provisional select list was published by the Tamil Nadu Public Service Commission on 01.11.2019 along with the marks, whereafter impleadment applications of the selected candidates were allowed and the matter proceeded before the learned single Judge. The learned single Judge heard the matter and then finally disposed of the same in the terms as referred to hereinabove, which has been impugned by the selected candidates on the ground that the directions issued by the learned single Judge are contrary to law and the entire process has been vitiated, as the learned single Judge himself embarked upon an exercise of modulating the selection process contrary to the statutory rules. Consequently, for the grounds taken, it has been prayed that the impugned judgment be set aside and the selections of the 33 selected candidates be restored.

16. We have heard Mr.G.Sankaran, Mr.R.Viduthalai, learned Senior Counsel, and Mr.Ajmalkhan, learned Senior Counsel, for the appellants and Mr.B.Vijay, Mr.N.K.Ponraj, Mr.P.Srinivas, Mr.AR.L.Sundaresan, Senior Counsel, Mr.N.Subramaniyan, Mr.J.Chelladurai Caldwell, Mrs.Selvi George and Mr.U.Karunakaran, learned counsels for the petitioners in the impleading petitions, as also Mr.Vijay Narayan, learned Advocate General, appearing for the respondent State, Mrs.Nalini Chidambaram, learned Senior Counsel, appearing for the respondent writ petitioner and M/s.C.N.G.Niraimathi, learned Standing Counsel for the Tamil Nadu Public Service Commission. The argument of M/s.Selvi George is on behalf of a candidate who had not been allowed to appear in the written examinations and who filed a separate writ petition where an interim direction was given to allow the petitioner therein to participate in the written examinations, but the results of the candidate were kept in abeyance. This is over and above the 1328 candidates, who had appeared in the written examinations.

17. Before we proceed to consider the rival contentions, there are certain aspects that deserve to be placed on record at the outset. The post in question namely, the Motor Vehicles Inspectors Grade II is a category 2 post of the Tamil Nadu Transport Subordinate Service. The post is to be filled up by direct recruitment and the qualifications prescribed for the said post as contained in Rule 5(b) (2) is as follows:-

5. Qualification. (a) ..

(b) Other qualifications. - No person shall be eligible for appointment to be category specified in column (1) by the method specified in column (2) of the table below unless he possesses the qualifications specified in the corresponding entries in the column (3) thereof:-

Category (1)	Method (2)	Qualifications (3)
1.		
2. Motor Vehicles Inspectors, Grade II.	Direct recruitment	(i) Minimum general educational qualification; (ii) A diploma in Automobile Engineering (3 years' course) or a diploma in mechanical Engineering (3 years' course) awarded by the State Board of Technical Education and Training, Tamil Nadu; (iii) Experience of having worked for a period of not less than one year both on vehicles fitted with petrol engines and vehicles fitted with diesel engines on a full time basis in an Automobile Workshop which undertakes repairs of light motor vehicles, heavy goods vehicles and heavy passenger motor vehicles; (iv) must hold a driving licence authorising him to drive motor cycle, heavy goods vehicles and heavy passenger motor vehicle and must have experience in driving heavy transport vehicles for a period of not less than six months; Provided that other things being equal, preference shall be given to those who possess post diploma in Automobile Engineering awarded by the State Board of Technical Education and Training, Tamil Nadu.

Explanation. - "Automobile Workshop" for the purpose of entry (iii) above means -

- (a) an automobile workshop owned by the Government or the State Transport Corporation; or
- (b) an automobile workshop recognized or approved or certified by the Transport Commissioner or the Director, Motor Vehicles Maintenance Department for carrying out all kinds of repairs.

18. We had enquired from the learned Advocate General as to the broad nature of duties to be performed by the candidates appointed to the said post, upon which a compilation by a retired Regional Transport Officer titled as 'Functions of Field Officers (Transport Department)' has been provided to us, where the broad nature of functions of Motor Vehicle Inspectors are enumerated as follows:-

Motor Vehicle Inspectors:

1. Tour at least 10 days in a month.
2. Total Number of vehicles to be checked
3. 25% Inspection of driving schools (100% to be done by all MVIs by instruction)
4. 20% inspection of Bus stands
5. Checking offences listed
6. 100% verification of PVRs
7. Grace period check
8. Inspection of Pollution Testing Centers once in 2 months. (Cir 11/2001 & 18/2003)

Items of work attended by Motor Vehicle Inspectors:

1. Issue and renewal of Fitness certificate for transport vehicles
2. Inspection of vehicles involved in accidents.
3. Attending courts in connection with accident cases
4. Conducting driving test
5. Registration and Re-registration of vehicles

6. Verification of stoppage reports
7. Inspection of bus stands
8. Controlling transport arrangements at the time of fairs and festivals
9. Seizure of documents and service of charge memos, etc.
10. Inspection of Government vehicle for condemnation and fixing of upset prices.
11. Inspection of vehicles for alteration
12. Contacting revenue officials for recovery of old arrears
13. Inspection for revocation of CFx notices
14. Inspection of Government vehicles (quarterly)
15. Traffic survey on routes
16. Checking vehicles on road for irregularities and issue of CFx notices.
17. Inspection of Non Transport vehicles for renewal of RC
18. Inspection of places for erection of traffic signs
19. Inspection of workshops
20. Enquiries on complaints received from Public
21. Arrangements of buses and lorries during elections and other occasions for bandobust duties.
22. Inspection of driving schools
23. Inspection of Pollution Testing Centers
24. Inspection of Dealer premises
25. Issue of Conductor license.

19. The advertisement that was issued by the Tamil Nadu Public Service Commission describes the number of available vacancies as 113 and the scheme of selection process is to commence with a written examination that was to be held on 10.06.2018. The educational qualifications and experience which was advertised contains the basic educational qualifications as well as the qualifications prescribed for the post that have been extracted hereinabove. This is contained in Clause 6B of the advertisement, which is extracted herein under:-

6. QUALIFICATIONS

(B) EDUCATIONAL QUALIFICATION AND EXPERIENCE as on 14.02.2018

Applicants should possess the following or its equivalent qualification and experience as on 14.02.2018 (i.e. the date of notification):-

QUALIFICATION	EXPERIENCE
(i) SSLC	
(ii) Any one of the following Qualifications awarded by the State Board of Technical Education and Training, Tamil Nadu	(i) Experience of having worked for a period of not less than one year both on vehicles fitted with Petrol Engines and Vehicles fitted with Diesel Engines on a full time basis in an Automobile workshop which undertakes repairs of Light Motor Vehicles, Heavy Goods Vehicles and Heavy Passenger Motor Vehicles.
A Diploma in Automobile Engineering (3 years Course) Or A Diploma in Mechanical Engineering (3 years Course)	(ii) Must hold a valid driving licence authorising him to drive Motor Cycle, Heavy Goods Vehicles and Heavy Passenger Motor Vehicles. and (iii) Must have experience in driving Heavy Transport Vehicles for a Period of not less than six months after obtaining the licence referred to above.

Provided that other things being equal, preference shall be given to those who possess Post Diploma in Automobile Engineering awarded by the State Board of Technical Education and Training, Tamil Nadu.

EXPLANATION: "Automobile workshop" shall mean

(A) An Automobile workshop owned by the Government or the State Transport Corporation. or

(B) An Automobile workshop recognised or approved or certified by the Transport Commissioner or the Director, Motor Vehicles Maintenance Department for carrying out all kinds of repairs.

Note

- (i) The Diploma qualification prescribed for this post should have been obtained after passing SSLC/H.Sc. The results of exam should have been declared on or before the date of Notification.
- (ii) Experience should have been gained after passing the prescribed educational qualification.
- (iii) The candidate should have valid driving licence on the date of notification.
- (iv) Applicants claiming equivalence of qualification to the prescribed qualification should submit evidence for equivalence of qualification in the form of G.O. issued prior to the date of this notification, failing which their application will be summarily rejected. The G.Os issued declaring equivalence of prescribed qualification after the date of this notification will not be accepted under Section 25(b) of Tamil Nadu Government Servants (Conditions of Service) Act 2016. A list of Equivalence of qualification in the related subject is available in Annexure - I to this notification. (Refer also the disclaimer announced with the notification) (Refer para 10 of the "Instructions to Applicants")
- (v) The applicants should upload and submit experience certificate in the prescribed format as provided in Annexure-II to this Notification along with online application.
- (vi) The online application submitted without submitting the experience certificate in the prescribed format / copies of certificates with printout of online application will be summarily rejected.

The Scheme of written examination is of objective type to the OMR method followed by an oral test. The marks prescribed in the scheme of examination is contained in Clause 8 of the advertisement, which is extracted hereinunder:

Subject	Duration	Maximum Marks	Minimum Qualifying Marks for Selection	
			SCs, SC (A)s, STs, MBCs/DCs, BCs and BCMs	Others
i. Paper-I Diploma standard (200 Questions) (Code No.310) Subject paper in Mechanical Engineering (100 Questions) and Automobile Engineering (100 Questions)	3 hours	300		
ii. Paper-II GENERAL STUDIES (100 Questions) (Code No.003) General Studies (HSC Standard) - 75 Questions And Aptitude and Mental Ability (SSLC Standard) - 25 Questions	2 hours	200	171	228
iii. Interview and Records		70		
Total		570		

20. The selection procedure as provided for in Clause 10 is extracted hereinafter:

10. SELECTION PROCEDURE

Selection will be made in two successive stages i.e., (i) Written Examination and (ii) Oral Test in the form of an interview. Final selection will be made on the basis of total marks obtained by the applicants at the Written Examination and Oral Test taken together subject to the rule of reservation of appointments. Appearance in both the papers of the Written Examination and Oral Test is compulsory. Based on the marks obtained by the candidates in the Written Examination, the tentative list of eligible candidates for certificate verification will be announced in the Commission's website. After verification of the original certificates, the eligible candidates will be summoned for Oral Test following the rule of reservation of appointments.

21. The general information as provided in Clause 12 also under sub-clause C provides that the number of vacancies advertised is only approximate and is liable to modification including reduction with reference to vacancy position at any time before finalization of selection. Sub-clause E further puts in a caveat that the selection for appointment to the above said post is purely provisional subject to final Orders on pending writ Petitions, if any, filed at Madras High Court as well as the Madurai Bench of Madras High Court. Under the heading 'Other important instructions', clause 13(a) and (i) are also important, which are extracted hereinafter:

13. OTHER IMPORTANT INSTRUCTIONS

a) Applicants should ensure their eligibility for examination: The applicants applying for the examination should go through all instructions carefully and ensure that they fulfil all eligibility conditions for admission to examination. Their admission to all stages of the examination will be purely provisional subject to satisfaction of the eligibility conditions. Mere issue of memo of admission to the applicant will not imply that his/her candidature has been fully cleared by the Commission.

....

i) Applicants are required to submit along with the print out of online application, copies of certificates in support of their claims regarding Age, Educational qualifications, Driving licence, Experience, Preferential qualification, Physical qualification, Community certificate and Certificates regarding their physical disability and all other required copies of documents (as mentioned in Annexure-IV) on or before 25.03.2018 without fail. The applicants applying for the examination should ensure that they fulfil all the eligibility conditions for admission to the Examination. Their admission at all the stages of examination for which they are admitted by the Commission viz. Main Written Examination, Certificate verification and Oral Test will be purely provisional, subject to their satisfying the prescribed eligibility conditions. If on verification at any time before or after Main Written Examination, Certificate Verification and Oral Test, it is found that they do not fulfil any of the eligibility conditions, their candidature for the recruitment will be liable for rejection / cancellation by the Commission. (For further details refer "Instructions to Applicants").

22. The format provided for experience is contained in Annexure II, which is extracted hereinunder:

ANNEXURE-II
EXPERIENCE CERTIFICATE (MODEL FORMAT)
(Copy should be uploaded while submitting online application)

1	Name and Address of the Automobile Workshop / Firm / Government Department / Public Sector undertaking / Private	
2	(i) Whether the workshop is owned by the Government or the State Transport Corporation or Private (ii) Whether the said Workshop / Firm is recognised or approved or certified by the Transport Commissioner or the Director, Motor Vehicles Maintenance Department for carrying out all kinds of Repairs (major and minor repairs for petrol and Diesel Engine fitted vehicles)	
3	(a) Registration Number of the Workshop / Firm (b) Period and Approval No. by the Motor Vehicles Maintenance Department	
4	Name of the Employee / Candidate and Date of Birth to whom the experience certificate is being issued	
5	Qualification possessed by the Employee on the Date of joining Service	
6	Designation and Period of Experience of the Employee / Candidate	
7	Nature of the work / Duty performed by the Employee / Candidate (i) Experience of having worked for a period of not less than one year both on vehicles fitted with Petrol Engines and Vehicles fitted with Diesel Engines on a full time basis in an Automobile workshop which undertakes repairs of Light Motor Vehicles, Heavy Goods Vehicles and Heavy Passenger Motor Vehicles (ii) Whether this period covers the approval by Motor Vehicles Maintenance Department Experience in Driving Heavy Transport Vehicles for a period of not less than six months after obtaining licence	From: To: Yes / No / Does Not Agree From: To: Year Up
8	Whether the Employee possesses valid Driving Licence on the date of application authorising him to drive Motor Goods Heavy Goods Vehicles and Heavy Passenger Motor Vehicles Valid Driving Licence Number and Expiry Date	Yes / No
9	Whether Attendance Register / Absenteeism Book / Day Register and other records available for this Employee	Yes / No
10	Certificate by Manager of the Workshop / Firm	The above said employee is experienced in our workshop / Firm as stated above. The above particulars furnished by us are correct.

Office Seal
Date:
Place:

Signature:

Name & Designation of the
Issuing Authority

Note:

- (i) Firm / Workshops which issue the certificate is cautioned that issuing of any certificate containing false details will lead to legal/perpetual action on them.
(ii) Candidates who possess experience in different firm may upload all such certificates.

Annexure IV to the advertisement prescribes the list of copies of documents to be submitted by the candidates and at Item No.4, the same reads that the practical workshop experience certificate shall be in the prescribed format.

23. A perusal of the aforesaid provisions would indicate that the selection procedure under Clause 10 of the advertisement clearly recites that after the written examination is over, final selection shall be made on the basis of total marks obtained by the applicants in the written examination and oral test taken together. However, the same clause also provides that based on the marks obtained by the candidates in the written examination, a tentative list of eligible candidates for certificate verification will be announced on the Commission's website. It further states that after verification of the original certificates, the eligible candidates will be summoned for oral test following the rule of reservation of appointments.

24. The aforesaid procedure in no uncertain terms is also contained in the Instructions to applicants issued by the Tamil Nadu Public Service Commission, a copy whereof has been placed before us. It contains the very same conditions which have been indicated in the advertisement under Clause 13 of 'Other important instructions'. The procedure of selection as contained in clause 10 is in pari materia with the procedure of selection provided in the aforesaid instructions. The certificate verification has to be carried out before the oral test, as the certificate verification is meant only for confirming the eligibility of the applicants and is the first stage of selection process. Thus, before a candidate enters the second stage of oral test, the certificate has to be verified and the provisional list of eligible candidates has to be uploaded on the Commission's website.

25. The stand of the Commission is that after carrying out of the verification, since only 33 candidates were found to be in possession of valid experience certificates as prescribed, it is they who were only called by way of a provisional list uploaded on the website. It is here where the dispute began when the unsuccessful candidates filed their writ petitions contending that the procedure prescribed under Clause 10 had been violated and even the names of those candidates who are stated to have been provisionally selected was not displayed on the website.

26. It is in this background that the learned single Judge before whom the writ petitions came initially, passed an interim order on 30.07.2019, which is extracted hereinunder:

"In all these writ petitions, the common grievance of the petitioners is that despite they are qualified in written examination conducted by the Tamil Nadu Public Service Commission for the recruitment to the post of Motor Vehicle Inspector Grade -II, ultimately

when the provisional list was published on 15.07.2019, their registration numbers did not figure therein. According to these petitioners, on the basis of their self assessment, they have scored more than the cut off marks prescribed for each of the categories earmarked by the Commission to be admitted to next stage of selection i.e., oral test. In spite of the same, they were not provisionally selected for admission to the oral test which is scheduled to be conducted on 05.08.2019. The common point of objection of the petitioners, is that the qualification and experience certificates produced by them, have not been accepted on the basis of scrutiny undertaken by the Transport Commissioner. The petitioners have submitted that they have produced valid Experience certificates, as per the qualification prescribed in the Notification of the Commission dated 14.02.2018. Despite the same, they are found ineligible to be called for the oral test. The Transport Commissioner herein who has undertaken to verify the Experience certificates produced by the petitioners, has not given any opportunity to the petitioners to substantiate their claim of having requisite valid Experience certificates. On the other hand, the Transport Commissioner has held that the experience certificates produced by these petitioners are invalid and therefore, they were ineligible to participate in the oral test.

2. All the learned counsels appearing for the petitioners would submit that Clause 10 of the Notification, which provides for "Selection Procedure" wherein, it is stated that the tentative list of eligible candidates for certificate verification will be announced after written examination, however, such procedure has not been adopted by the Commission and straightaway held that the petitioners herein were found disqualified. The said Clause 10 reads as under:

"10. SELECTION PROCEDURE:

Selection will be made in two successive stages i.e., (i) Written Examination and (ii) Oral Test in the form of an interview. Final selection will be made on <http://www.judis.nic.in> 3 the basis of total marks obtained by the applicants at the Written Examination and Oral Test taken together subject to the rule of reservation of appointments. Appearance in both the papers of the Written Examination and Oral Test is compulsory. Based on the marks obtained by the candidates in the Written Examination, the tentative list of eligible

candidates for certificate verification will be announced in the Commission's website. After verification of the original certificates, the eligible candidates will be summoned for Oral Test following the rule of reservation of appointments. "

3. From the above, it could be seen that the determination of validity of the Experience certificate could be undertaken only after the written examination and during certificate verification, however, such exercise has not been carried out by the Commission and the Commission was guided by the action being taken by the Transport Commissioner, whose unilateral action has resulted in disqualification of several persons including these petitioners from being admitted to the oral test, which is scheduled to be held on 05.08.2019. The total vacancies notified in the subject Notification were 113 whereas, only 33 persons were ultimately found to be eligible for appearing for the oral test scheduled to be held on 05.08.2019.

4. This Court is unable to understand as to how as less as 33 candidates alone were qualified and called for oral test when the vacancies were notified 113, for which, more than 1200 candidates had appeared. In any case, the stand of the petitioners is that they have scored more than the cut of marks in the written examination but were not called for oral test and the only point of the dispute is in regard to the Experience certificates produced by the petitioners.

5. Therefore, learned counsels appearing for the petitioners would submit that pending finalization of the writ petitions, these petitioners can be allowed to participate in the oral test which is scheduled to be held on 05.08.2019 or any subsequent date or so.

6. At this, Mr. V.T.Gopalan, learned Senior Counsel appearing for the Commission would submit that it is the Transport Commissioner who has undertaken the exercise of verification of the certificates and on the basis of the report submitted by him, the petitioners were found not eligible to be admitted for the oral test. The learned Senior Counsel further added that in case the petitioners and the others are allowed to participate in the oral test which is scheduled on 05.08.2019, it will result in dislocation of the selection process.

7. This Court is unable to understand as to how the selection process and the schedule of oral test would get unsettled if these petitioners are allowed to participate in the oral test. It is always open to the Commission to have more days for conducting oral test in order to accommodate all the petitioners on the basis of the direction of this Court. Therefore, this Court is of the considered view that the rights of the petitioners cannot be affected because the Commission has expressed certain reservation about the procedural difficulties in conducting oral test in respect of these petitioners. It is certainly within the power and discretion of the Commission to have more days to conduct oral test to accommodate all the petitioners in case the Commission feels that the oral test cannot be completed on the same day i.e., on 05.08.2019. The Commission, in the face of fundamental right being affected in regard to large number of candidates, due to the action of the Transport Commissioner, cannot express its inability in admitting these petitioners to the oral test. Therefore, the Commission is directed to call these petitioners also for interview/oral test, which is scheduled to be held on 05.08.2019, by allowing the petitioners to participate in the test either on that day or in any subsequent dates to be notified by the Commission and the results of these petitioners shall be kept in a sealed cover until further orders from this Court.

8. The learned Counsel for the Commission is directed to instruct the Commission to act as per the direction of this Court to enable the Commission to make preparation for conducting oral test for these petitioners as well which is scheduled to be held on 05.08.2019 or any subsequent date fixed by the Commission in this regard."

27. The said order was modified on 01.08.2019, which is extracted hereinunder:

"This Court, vide its order dated 30.07.2019, in earlier batch of Writ Petitions in W.P.Nos.22286 of 2019, etc., directed the Commission to call the petitioners therein for interview/oral test, which is scheduled to take place on 05.08.2019 or any other subsequent date to be notified by the Commission and the results of the petitioners shall be kept in a sealed cover until further orders from this Court.

2. When the present batch of Writ Petitions raising similar grounds and issues, is taken up for hearing today, the learned Advocate General would submit that the Transport Department has conducted extensive verification in regard to Experience Certificates, validity of licence and driving licence in regard to each of the candidates and found that these writ petitioners do not satisfy the experience criteria as prescribed in Sub Clause (B) of Para 6 of the Notification, dated 14.02.2018. Therefore, these writ petitioners were not allowed to participate in the next stage of selection, namely, Oral test, which is scheduled to take place on 05.08.2019.

3. At this, the learned counsels appearing for the petitioners would submit that they are completely at loss to understand as to on what basis, their Experience Certificates were found to be not valid as the petitioners were not given any opportunity to know the basis of such unilateral decision taken by the Transport Department in rejecting their Experience Certificates.

4. The learned Advocate General would submit that individually the basis of the decision taken by the Transport Department will be disclosed by filing a common affidavit along with the information disclosing the basis as to each of the candidates who were found to be not qualified, on or before 09.08.2019. In case, the decision taken by the Transport Department is found to be without justification in terms of the qualification prescribed under Para 6(B) of the Notification, this Court can always direct the Commission to allow such of those writ petitioners whose Experience Certificates are found to be otherwise in order for Oral test/Interview which can be conducted on a later date. After all, according to the learned Advocate General, these writ petitioners have participated in the Written Examination and what is left to complete the selection is, only the Oral test/Interview. Therefore, if the writ petitioners satisfy the Experience criteria as prescribed in Para 6 (B) of the Notification, this Court can always issue direction to the Commission as it deems fit. He would further submit that as regards 33 already selected candidates, their participation in the Oral test which is scheduled to take place on 05.08.2019 need not be disturbed and the Commission may be permitted to go ahead with the Oral Test in regard to selected 33 candidates.

5. However, the learned counsels appearing for the writ petitioners would object to the participation of the selected 33 candidates in the Oral Test which is scheduled to take place on 05.08.2019 as that would upset the entire selection process as according to the learned counsels, the selected 33 candidates have secured lesser marks than some of the candidates who were found to be not qualified in terms of their Experience Certificates.

6. Considering the submissions made on behalf of the respondents by the learned Advocate General and on behalf of the various writ petitioners by the learned counsels, this Court is of the view that the interim order passed by this Court on 30.07.2019 in a batch of Writ Petitions, viz., W.P.Nos.22286 of 2019 etc., is liable to be modified.

7. Since it is represented on behalf of the Transport Department by the learned Advocate General that individually the basis for the decision taken against the writ petitioners concerned, would be disclosed by way of a common affidavit before 09.08.2019, this Court feels that it can always take a call in regard to the correctness of the decision taken by the Transport Department vis-a-vis each of the writ petitioners. This Court thereafter, can direct the Transport Commissioner to conduct Oral Test in respect of the left out candidates in case this Court is satisfied about the genuineness of the Experience Certificates produced by the writ petitioners so that the right of these writ petitioners is not affected at all by not participating in the present Oral Test which is scheduled to take place on 05.08.2019. However, in view of the apprehension expressed by the learned counsels appearing for the writ petitioners that the participation of the selected 33 candidates in the Oral Test would upset the entire selection process, this Court is of the view that the participation of the selected 33 candidates in the Oral Test which is scheduled to take place on 05.08.2019 alone can be permitted and their ultimate result need not be published by the Commission till a final decision is taken by this Court in the next date of hearing, after hearing all the parties concerned.

8. Accordingly, the interim order passed by this Court in earlier batch of Writ Petitions in W.P.Nos.22286 of 2019, etc., dated 30.07.2019 shall be modified to the extent indicated above and the same is ordered to be merged with the present order.

9. List this batch of Writ Petitions along with earlier batch of Writ Petitions, for final hearing on 14.08.2019."

28. Thereafter arguments were advanced on 21.08.2019, and by a third order dated 26.08.2019 the above quoted interim order was again modified. The same is reproduced hereinunder:-

"This Court, while hearing the above batch of Writ Petitions, passed an interim order on 30.07.2019, directing the Tamil Nadu Public Service Commission, to call the petitioners in all the Writ Petitions for interview/oral test which was scheduled to take place on 05.08.2019 or any other subsequent date to be notified and the results of the petitioner shall be kept in sealed covers until further orders from this Court. Thereafter, the said order was modified by another order passed on 01.08.2019 after taking note of the submissions made on behalf of the respondents by the learned Advocate General. The modified portion as found in paragraphs 6 to 8 in the order dated 01.08.2019 is extracted as under:

"5. However, the learned counsels appearing for the writ petitioners would object to the participation of the selected 33 candidates in the Oral Test which is scheduled to take place on 05.08.2019 as that would upset the entire selection process as according to the learned counsels, the selected 33 candidates have secured lesser marks than some of the candidates who were found to be not qualified in terms of their Experience Certificates.

6. Considering the submissions made on behalf of the respondents by the learned Advocate General and on behalf of the various writ petitioners by the learned counsels, this Court is of the view that the interim order passed by this Court on 30.07.2019 in a batch of Writ Petitions, viz., W.P.Nos.22286 of 2019 etc., is liable to be modified.

7. Since it is represented on behalf of the Transport Department by the learned Advocate General that individually the basis for the decision taken against the writ petitioners concerned, would be disclosed by way of a common affidavit before 09.08.2019, this Court feels that it can always take a call in regard to the correctness of the decision taken by the Transport Department vis-a-vis each of the writ

petitioners. This Court thereafter, can direct the Transport Commissioner to conduct Oral Test in respect of the left out candidates in case this Court is satisfied about the genuineness of the Experience Certificates produced by the writ petitioners so that the right of these writ petitioners is not affected at all by not participating in the present Oral Test which is scheduled to take place on 05.08.2019. However, in view of the apprehension expressed by the learned counsels appearing for the writ petitioners that the participation of the selected 33 candidates in the Oral Test would upset the entire selection process, this Court is of the view that the participation of the selected 33 candidates in the Oral Test which is scheduled to take place on 05.08.2019 alone can be permitted and their ultimate result need not be published by the Commission till a final decision is taken by this Court in the next date of hearing, after hearing all the parties concerned.

8. Accordingly, the interim order passed by this Court in earlier batch of Writ Petitions in W.P.Nos.22286 of 2019, etc., dated 30.07.2019 shall modified to the extent indicated above and the same is ordered to be merged with the present order."

2. Thereafter, the matters were adjourned for further hearing and were lastly listed on 21.08.2019. On that day, the respective learned counsels appearing for the petitioners, would uniformly raise objections in regard to the action of the Commission in disqualifying several hundreds candidates on being not satisfied with the genuineness of the experience certificates produced by them. According to the learned counsels for the petitioners, as per Clause 10 of the Notification issued by the Commission dated 14.2.2018, tentative list of eligible candidates will be announced in the Commission's website on the basis of marks obtained by the candidates in the written examination for the purpose of their certificates verification. Clause 10 of the Notification reads as under:

"10. SELECTION PROCEDURE Selection will be made in two successive stages i.e., (i) Written Examination and (ii) Oral Test in the form of an interview. Final selection will be made on the basis of total marks obtained by the applicants at the Written Examination and Oral Test taken together subject to the rule

of reservation of appointments. Appearance in both the papers on the Written Examination and Oral Test is compulsory. Based on the marks obtained by the candidates in the Written Examination, the tentative list of eligible candidates for certificate verification will be announced in the Commission's website. After verification of the original certificates, the eligible candidates will be summoned for Oral Test following the rule of reservation of appointments."

3. According to the learned counsels, without publishing the tentative list of eligible candidates in their website, the Commission has chosen to disqualify several candidates on the basis of certificate verification unilaterally conducted by the Transport Commissioner and those disqualified candidates who formed part of the present batch of writ petitions were not permitted to be allowed to the next stage of selection, namely, oral test/interview. According to these learned counsels, until the Commission notifies in the website the tentative list of eligible candidates after the conclusion of the written examination, these writ petitioners are without any clue as to their eligibility or otherwise in the written examination conducted by the Commission.

4. Shri V.T.Gopalan, learned Senior Counsel appearing for the Commission sought time for getting instructions from the Commission and today, when the matters were listed again for hearing, the learned Senior Counsel would submit that as consistently held by the Hon'ble Supreme Court of India that the marks obtained by each of the candidates need not be published unless the entire selection process is over. According to the learned Senior Counsel by publication of individual marks would result in multitude of litigations stalling further process of selection and in which event, the entire selection would get derailed midway and that situation would not advance the public interest.

5. At this, this Court confronted with the learned Senior Counsel that as per Clause 10 of the Notification, it is clearly mentioned that the tentative list of eligible candidates need to be announced in the website based on the marks obtained by the candidates in the written examination, which clearly means that the list of eligible candidates need

to be published not necessarily with indication of individual marks obtained by the candidates. The Commission having provided such a procedure in its own Notification, cannot take a stand that it need not publish the tentative list of eligible candidates before calling for certificate verification sans individual marks. Therefore, this Court is of the considered view that it is imperative on the part of the Commission to publish tentative list of eligible candidates before certificate verification without mentioning the marks obtained by the individual candidates as that would, in fact, provide clarity as to the candidates who were found to be eligible to be admitted to the next stage of selection, namely, certificate verification/oral test/interview. Instead of announcing the tentative list of eligible candidates on the website, the Commission's action in embarking on certificate verification on the basis of advice/directives of the Transport Commissioner is clearly not in consonance of the procedure contemplated in the Notification. Such certificate verification before announcing the tentative list of the eligible candidates is like putting the cart before the horse. Once a particular procedure is contemplated in the Commission's Notification, such procedure needs to be adhered to without any deviation or departure from such requirement, particularly as found in Clause 10 of the Notification.

6. In the above circumstances, this Court is of the considered view that in the interest of all concerned, the Commission is to be directed to announce the list of eligible candidates on the basis of the marks obtained by them in the written examination on the Commission's website without disclosing the individual marks obtained by each of the candidates and such procedure would fulfill the requirement of Clause 10 of the Notification and would also take care of preliminary objection raised by all the learned counsels appearing for the petitioners.

7. Accordingly, the Commission is directed to publish in its website the tentative list of all eligible candidates based on the marks obtained by them in the written examination sans individual marks within a period of one week from the date of receipt of a copy of this order.

8. List all the Writ Petitions for further orders/directions on 05.09.2019. Till then, the status quo as on date shall continue. "

29.As indicated above, the aforesaid interim order dated 26.08.2019 came to be challenged in W.A.No.3261 of 2019 and the Division Bench stayed the operation of the order of the learned single Judge by making observations, that vitally affected the merits of the case, vide order dated 24.09.2019, that is extracted hereinunder:

"Being aggrieved by the common order, made in W.P.No.22535 of 2019, etc., batch of writ petitions, dated 26/8/2019, by which, taking note of Clause 10 of Notification No.3 of 2018, (Advertisement No.489) of the Tamil Nadu Public Service Commission, dated 14/2/2018, writ Court has directed the Tamil Nadu Public Service Commission, to publish the list of eligible candidates, on the basis of the marks obtained by them, in the written examination on the Commission's website, without disclosing the individual marks obtained by each of the candidates. While issuing the directions, writ Court has observed that such procedure would fulfill the requirement of Clause 10 of the Notification and would also take care of the preliminary objection raised by all the learned counsels appearing for the writ petitioners.

2. Writ Court has directed the Tamil Nadu Public Service Commission, to publish in its website, the tentative list of all eligible candidates, based on the marks obtained by them, in the written examinations sans individual marks, within a period of one week, from the date of receipt of a copy of the said order. Writ Court has further directed status-quo to continue.

3. Inviting the attention of this Court to the eligibility criteria, selection procedure, power of the Tamil Nadu Public Service Commission, to reject or cancel the candidature of an applicant and also inviting the attention of this Court to the counter affidavit filed by the Transport Commissioner, as regards the scrutiny of the certificates submitted by the applicants, Mr.V.T.Gopalan, learned senior Counsel for the Tamil Nadu Public Service Commission submitted that one of the eligibility conditions for selection, is the submission of the workshop experience, driving experience. Transport Commissioner, Chennai, having done the exercise of verification of the above said certificates found and intimated to the Tamil Nadu Public Service Commission that only 33 candidates alone have fully qualified the conditions, prescribed by the Tamil Nadu Public Service Commission, and therefore,

directions of the writ Court to publish the list of all the applicants in the official website of Tamil Nadu Public Service Commission, a tentative list of all the eligible candidates based on the marks obtained in the written examination sans individual marks, is contrary to the specific Clause 13 of the Notification No.03/2018, dated 14/2/2018.

4. Grounds raised in the writ appeal, assailing the correctness of the interim directions, are as follows:-

(i). Writ Court failed to appreciate that as per Notification in question an applicant should possess the following or its equivalent qualification and experience as on 14/2/2018 (i.e., the date of Notification)

QUALIFICATION	EXPERIENCE
(i) SSLC	
(ii) Any one of the following Qualifications awarded by the State Board of Technical Education and Training, Tamil Nadu	(i) Experience of having worked for a period of not less than one year both on vehicles fitted with Petrol Engines and Vehicles fitted with Diesel Engines on a full time basis in an Automobile workshop which undertakes repairs of Light Motor Vehicles, Heavy Goods Vehicles and Heavy Passenger Motor Vehicles.
A Diploma in Automobile Engineering (3 years Course) Or A Diploma in Mechanical Engineering (3 years Course)	(ii) Must hold a valid driving licence authorising him to drive Motor Cycle, Heavy Goods Vehicles and Heavy Passenger Motor Vehicles. and (iii) Must have experience in driving Heavy Transport Vehicles for a Period of not less than six months after obtaining the licence referred to above.

Explanation: "Automobile Workshop" shall mean A. An Automobile workshop owned by the Government or the State Transport Corporation.

Or

B. An Automobile workshop recognised or approved or certified by the Transport Commissioner or the Director, Motor Vehicles Maintenance Department, for carrying out all kinds of repairs.

ii. In other words, an applicant should possess both educational qualification and experience prescribed in the Notification, on the date of Notification itself.

iii. Writ Court has failed to appreciate the submission of the Tamil Nadu Public Service Commission made in paragraph 6 of the counter affidavit, dated 29 th July 2019, wherein it is submitted that in cases where the qualification prescribed for a post requires experience also, Tamil Nadu Service Commission, can invoke Rule 26 of the Tamil Nadu Public Service Commission Rules of Procedure, 1996 and call for a report from the authority competent to certify on the experience possessed by the candidates based on the documents uploaded by them at the time of application duly notified vide Note No.(v) and (vi) under Clause 6 B of the Notification. For better appreciation, Note No.(v) and (vi) of Clause 6 B is extracted hereunder:-

"(v). The applicants should upload and submit experience certificate in the prescribed format as provided in Annexure - II to this Notification along with online application.

(vi). The online application submitted without submitting the experience certificate in the prescribed format/copies of certificates with print out of online application will be summarily rejected."

iv. Writ Court has failed to appreciate the submission of Tamil Nadu Public Service Commission, in paragraph 7 of the counter affidavit, dated 29 th July 2019, wherein it is submitted that since only 1289 candidates appeared for the written examination (Objective Type-OMR Method), the documents in support of the experience qualification of all the candidates were simultaneously forwarded to the competent authority, namely the Transport Commissioner and this procedure is clearly in consonance with clause 13 (i) of the Notification, extracted hereunder, for better appreciation of this Court.

"13 (i). Applicants are required to submit along with the print out of online application,

copies of certificates in support of their claims regarding Age, Educational qualifications, driving licence, experience, preferential qualification, physical qualification, community certificate and certificates regarding their physical disability and all other required copies of documents (as mentioned in Annexure - IV) on or before 25/3/2018 without fail. The applicants applying for the examination should ensure that they fulfill all the eligibility conditions for admission to the examination. Their admission at all the stages of examination for which they are admitted by the Commission viz., Main Written Examination, Certificate Verification and Oral Test will be purely provisional, subject to their satisfying the prescribed eligibility conditions. If on verification at any time before or after main written examination, Certificate Verification and Oral Test, it is found that they do not fulfill any of the eligibility conditions, their candidature for the recruitment will be liable for rejection/cancellation by the Commission. (For further details refer "Instructions to applicants").

v. It is the submission of Mr.V.T.Gopalan, learned Senior Counsel for the Tamil Nadu Public Service Commission, that while so, the observation of the writ Court, in paragraph 5 of the impugned order to the effect that the Commission's action in embarking on certificate verification before announcing the tentative list of eligible candidates based on the marks obtained in the written examination is like putting the cart before the horse, is misconceived and an erroneous reading of the clauses in the Notification especially Note No.(v) and (vi) of Clause 6 B and Clause 13 (i) of the Notification read with Clause 10 of the Notification.

vi. According to the Tamil Nadu Public Service Commission, the writ Court, having found from the counter affidavit of the appellant Commission herein that out of the candidates who appeared in the written examination which is the first stage of the selection process, only 33 candidates were found to possess both educational and experience qualification and that the remaining candidates (some of them being petitioners before this Hon'ble Court) lacked in the experience qualification, as found and reported by the Transport Commissioner, who is the competent authority to certify

whether the certificates produced by the candidates satisfy the experience qualification prescribed in the Notification, ought not to have passed the impugned direction, solely on the basis of Clause 10 of the Notification, which also speaks of only drawing tentative list of eligible candidates and certainly not the candidates whose experience qualification has not been cleared by the competent authority. Clause 10 of the Notification is extracted hereunder:-

"Selection Procedure: Selection will be made in two successive stages i.e., (i). Written examination and (ii). Oral test in the form of an interview. Final selection will be made on the basis of total marks obtained by the applicants at the written examination and oral test taken together subject to the rule of reservation of appointments. Appearance in both the papers of the written examination and oral test is compulsory. Based on the marks obtained by the candidates in the written examination, the tentative list of eligible candidates for certificate verification will be announced in the commission's website. After verification of the original certificates, the eligible candidates will be summoned for oral test following the rule of reservation of appointments.

vii. According to the appellant, even in the recent decision of the Hon'ble Supreme Court in West Bengal Central School Service Commission Vs. Abdul Halim and others, reported in 2019 SCC Online SC - 902, the Hon'ble Supreme Court has held that

"It is well settled that the High Court in exercise of jurisdiction under Article 226 of the Constitution of India does not sit in appeal over an administrative decision. The Court might only examine the decision making process to ascertain whether there was such infirmity in the decision making process which vitiates the decision and calls for intervention under Article 226 of the Constitution of India."

viii. In such circumstances, the learned Judge ought not to have passed the impugned direction. According to the Commission, exercise undertaken by the Commission which does not suffer from any infirmity.

ix. By the impugned direction issued, based on Clause 10 of the Notification, writ Court has virtually compelled the Tamil Nadu Public Service Commission to ignore one of the essential qualifications prescribed for the post, notified in judging the eligibility of an applicant to the next stage of selection process. Therefore, the impugned direction based on Clause 10 alone, cannot be pressed into service on the facts and circumstances of the case, is liable to be set aside.

x. Writ Court has failed to appreciate that the Tamil Nadu Public Service Commission has no power to relax the qualifications prescribed in the Notification, which is based on rules because if the Tamil Nadu Public Service Commission has to draw the tentative list of eligible candidates based on the marks obtained by the candidates in the written examination, it would amount to relaxing the experience qualifications for such of those candidates who figure in the list as per the ratio fixed for certificate verification/oral test (interview).

xi. Writ Court ought to have dismissed the claim of the writ petitioners for a direction to the Tamil Nadu Public Service Commission, to draw the tentative list of eligible candidates based on the marks obtained in the written examination on the ground that the writ petitioners having participated in the selection process with full knowledge of Clause 13 (i) of the Notification, cannot turn round and question the procedure adopted by the Tamil Nadu Service Commission in verifying the eligibility before the finalization of the written examination.

xii. Writ Court ought to have dismissed the claims of the writ petitioners when their eligibility to participate in the selection process itself no longer exists, as that there is no question of the writ petitioners acquiring a right to know where they stand pursuant to the result of the written examination and such information can always be obtained by them, under the Right to Information Act, which can be made available to them after the select list is forwarded to the Government for issuance of appointment orders.

xiii. Writ Court ought to have declined the claim of the writ petitioners for the impugned direction and instead, directed the writ petitions to be posted for final disposal.

5. We have gone through the Notification and the selection procedure, as contemplated in Clause 10 of the Notification, which reads as under:-

"Selection will be made in two successive stages i.e., (i). Written examination and (ii) oral test in the form of an interview. Final selection will be made on the basis of total marks obtained by the applicants at the written examination and oral test taken together subject to the rule of reservation of appointments. Appearance in both the papers of the written examination and oral test is compulsory. Based on the marks obtained by the candidates in the written examination, the tentative list of eligible candidates for certificate verification will be announced in the Commission's website. After verification of the original certificates, the eligible candidates will be summoned for oral test following the rule of reservation of appointments.

6. Clause 13 of the Notification deals with other important instructions. As per Clause 13 (a), "Applicants should ensure their eligibility for examination should go through all instructions carefully and ensure that they fulfil all eligibility conditions for admission to examination. Their admission to all stages of the examination will be purely provisional subject to satisfaction of the eligibility conditions. Mere issue of memo of admission to the applicant will not imply that his/her candidature has been fully cleared by the Commission."

7. As per Clause 13 (i), "applicants are required to submit along with the print out of online application, copies of certificates in support of their claims regarding Age, Educational qualifications, Driving licence, experience, preferential qualification, physical qualification, community certificate and certificates regarding their physical disability and all other required copies of documents (as mentioned in Annexure - IV) on or before 25/3/2018 without fail. The applicants applying for the examination should ensure that they fulfill all the eligibility conditions for admission to the Examination. Their admission at all the stages of examination for which they are admitted by the Commission viz., Main written examination, certificate verification and oral test will be purely provisional,

subject to their satisfying the prescribed eligibility conditions. If on verification at any time before or after main written examination, certificate verification and oral test, it is found that they do not fulfil any of the eligibility conditions, their candidature for the recruitment will be liable for rejection/cancellation by the Commission."

8. Clause (j) of the Notification reads thus:-

"If any of their claims is found to be incorrect, it will lead to rejection of their candidature and suitable penal action."

9. Transport Commissioner, Chennai, in his counter affidavit, dated 16/8/2019 has stated that Notification issued in the year 2018, for 113 vacancies of Motor Vehicles Inspector, Grade - II, the verification of the genuineness of the Workshop Experience, Driving Experience and Driving licence were carried out by the Regional Transport Officer, on due instructions, from the Transport Commissioner, vide Letter No.35431/T1/2018, dated 30/10/2018.

10. Transport Commissioner, Chennai, has further stated that subsequently, number of petitions were received by the Transport Commissionerate, pointing out that the experience certificates of workshop and driving produced for this recruitment are manipulated and also there is no petrol vehicles in the State Transport Corporation.

11. He has further stated that in view of the above petitions, the Commissionerate again sent a letter, vide Ref.No.34531/T1/2018, dated 18/1/2019, requesting the Zonal Joint Transport Commissioner and Deputy Transport Commissioner to physically verify the spot and records (Attendance Register/attendance Roll/Salary genuineness of the above records and countersign in Annexure I and II and report on the genuineness of the driving licence duly stating whether the individual is eligible or not for the selection to the post of Motor Vehicles Inspector, Grade - II.

12. Verification for all 1328 candidates was carried out by the Transport Department. The above work was in detail since a candidate might have obtained the driving license at Madurai and might have worked at Chennai or other Districts. At this juncture, the Department has verified the genuineness at two or more places.

13. Out of 1328 candidates, 23 candidates have obtained driving licenses, driving license experience and workshop experience from the other States. Verification from the other State is in progress and the transport Department is continuing the process. Out of 23 candidates, the Transport Department of Tamil Nadu has not received the genuineness of driving licenses, driving license experience and workshop experience for 5 candidates till date. For the remaining five candidates, the nearby Regional Transport Officers of State were instructed to verify the records and submit the report.

14. Transport Commissioner has ordered for a two tier check up i.e, both by the Regional Transport Officer and later on checked up by the Zonal Officers, viz., Joint Transport Commissioners/Deputy Transport Commissioners level. Due to the two tier check-up, the exercise carried out for inspection is foolproof result obtained by the Transport Department as to genuineness of driving license, driving experience and work shop experience.

15. Transport Commissioner has submitted a consolidated report to the Tamil Nadu Public Service Commission in the format prescribed by them in Letter No.812/APD-B1/MVI-Gr.II/2018, dated 21/2/2019. The reports (Workshop experience, driving experience and driving license) received from the Zonal Officers in respect of 1322 candidates out of 1328 candidates have been consolidated in the prescribed format as specified by the Tamil Nadu Public Service Commission after due verification. The consolidated report had 8 columns out of which column Nos.4, 5, 6 and 7 are important one and these columns are necessary to arrive a decision and to mark reason at Column No.8 by the Transport Department. If column No.4 to 6 having the note of "Yes" then the column No.7 will have the note about the genuineness of the candidate on this subject whether the candidate to be considered or not to be considered for selection. The copy of said consolidated report is submitted before the Court.

16. Tamil Nadu Public Service Commission has published results for 33 candidates, those who are fully qualified and fulfilled the conditions prescribed by the Tamil Nadu Public Service Commission in their Notification No.03/2018, dated 14/2/2018. Out of the three qualification (workshop experience, driving experience and driving licence) even if one of the

qualification is failed, the candidate will not be eligible for selecting as Motor Vehicles Inspector Grade - II, as per the Notification. According to the Transport Commissioner, it took nearly 8 months period for verification of workshop experience, driving experience and driving licence and the report was sent to TNPSC batch by batch within the above said period.

17. Transport Commissioner has thoroughly verified the driving license, driving experience and workshop experience, in a clear way by considering the documents such as pay acquittance and attendance etc., of the candidates where they worked.

18. Thus, it would be seen from the above that a thorough and foolproof verification has been done by the Transport Commissionerate and it took nearly eight months, for verification of work experience, driving licence and that a report has also been sent to the Tamil Nadu Public Service Commission batch by batch and out of 1328 applicants, only 33 applicants were found to be fully qualified and fully satisfied the conditions prescribed by the Tamil Nadu Public Service Commission and found eligible for provisional selection to the post of Motor Vehicles Inspector Grade - II. Transport Commissionerate has also found that experience certificates of workshop, driving license produced by the applicants are manipulated.

19. Going through the material on record, we are of the prima facie view that contention of Mr.V.T.Gopalan, learned Senior Counsel for the Tamil Nadu Public Service Commission that Clause 10 of the selection procedure and Notification, dated 14/2/2018, of the Tamil Nadu Public Service Commission that a tentative list of eligibility candidates for certificate verification will be published in the Commission's website has to be read in conjunction with Clause 13 A and (I) of the said Notification, has force.

20. At the risk of repetition, Clause 13 (a), (h) and (i) of the Notification are reproduced hereunder:-

(a). Applicants should enclose certificates to substantiate their eligibility for the posting notified. Applicants applying for the examination should go through all instructions carefully and ensure that they fulfill all eligibility conditions for admission to examination. Their admission to all stages

of the examination is purely provisional subject to satisfaction of the eligibility conditions. Mere issue of memo of admission to the applicants will not imply that his/her candidature has been fully cleared by the Commission.

(h). For violation of "Instructions to Applicants" in any manner, suitable penalty will be imposed as per the "Instructions to Applicants"" or as deemed fit by the Commission.

(i). Along with the print out of online application, applicants are required to submit copies of certificates in support of their claims regarding age, educational qualifications, driving licence, experience, preferential qualification, physical qualification, community certificate and certificates regarding their physical disability and all other required copies of documents (as mentioned in Annexure - IV) on or before 25/3/2018 without fail. The applicants applying for the examination should ensure that they fulfill all the eligibility conditions for admission to the examination. Their admission at all the stages of examination for which they are admitted by the Commission viz., Main Written Examination, Certificate Verification and Oral Test will be purely provisional, subject to their satisfying the prescribed eligibility conditions. If on verification at any time before or after main written examination, Certificate Verification and Oral Test, it is found that they do not fulfill any of the eligibility conditions, their candidature for the recruitment will be liable for rejection/cancellation by the Commission. (For further details refer "Instructions to applicants").

21. Going through the contents of the Notification, we are of the prima facie view that merely because a candidate has taken the written examination that would not clip the wings of the Tamil Nadu Public Service Commission to reject the candidature of a candidate for recruitment, at any stage.

22. Clause 13 (h) makes it clear that on verification at any time before or after main written examination, certificate verification and oral test, it is found that the appellants do not fulfill any of the eligibility conditions, then their candidature for the recruitment will be liable for rejection/cancellation by the Commission.

23. According to Mr.V.T.Gopalan, learned Senior Counsel appearing for the Commission, thousands of applications have been submitted and having regard to the process and time taken for certificate verification, candidates were permitted to take the main examination. Once bonafides of the certificates submitted by the candidates, were verified, by the Transport Commissionerate and reported to the Tamil Nadu Public Service Commission, those who do not satisfy the eligibility condition, were not Notified in the official website of the Tamil Nadu Public Service Commission. Prima facie we are of the view that procedure followed by the Tamil Nadu Public Service Commission, cannot be said to be manifestly arbitrary, having regard to huge number of applications being received by the Tamil Nadu Public Service Commission.

24. In view of the above discussion, we are of the view that instant writ appeal requires admission.

25. In C.M.P.No.20589 of 2019 in W.A.No.3261 of 2019, the Tamil Nadu Public Service Commission has stated that out of 113 vacancies, only 33 candidates were found to be eligible. Eighty more vacancies are to be filled up. On the basis of the grounds and the submissions made, Tamil Nadu Public Service Commission has prayed for stay of the order, dated 26/8/2019, made in W.P.No.22535 of 2019., etc., batch of cases, pending disposal of the writ appeal.

26. Though some of the learned counsel made objections to the grant of interim order, we only observe that a private individual has no audience, at the time of admission of an appeal, without exercise of the powers of this Court, by admission and granting interim order, cannot be restricted. It depends upon the facts and circumstances of each case, we grant interim stay of the operation of the order made in W.P.No.22535 of 2019, dated 26/8/2019.

27. We make it clear that interim order passed by us is applicable to all the writ petitioners.

28. Notice to the respondents through Court and privately returnable by 14/10/2019.

29. Tamil Nadu Public Service Commission, appellant shall proceed in accordance with law and send a copy of the provisionally selected candidates to the Transport Commissioner, Chennai, second respondent.

30. Post on 14/10/2019.

30.It, however, appears that when the matter came up for final disposal, the Division Bench opined that only paragraphs 6 and 7 of the interim order passed by the learned single Judge deserved to be stayed and status quo regarding appointments is to be maintained till the writ petitions were finally disposed of. The final judgment dated 22.10.2019 is extracted hereinunder:

"These Writ Appeals have been filed aggrieved by the direction of the learned Single Judge in paragraphs 6 to 8 of the impugned order dated 26.08.2019, in a batch of writ petitions, which are quoted below for ready reference:

" 6.In the above circumstances, this Court is of the considered view that in the interest of all concerned, the Commission is to be directed to announce the list of eligible candidates on the basis of the marks obtained by them in the written examination on the Commission's website without disclosing the individual marks obtained by each of the candidates and such procedure would fulfill the requirement of Clause 10 of the Notification and would also take care of preliminary objection raised by all the learned counsels appearing for the petitioners.

7.Accordingly, the Commission is directed to publish in its website the tentative list of all eligible candidates based on the marks obtained by them in the written examination sans individual marks within a period of one week from the date of receipt of a copy of this order. 8.List all the Writ Petitions for further orders/directions on 05.09.2019. Till then, the status quo as on date shall continue."

2.An impleadment petition has been filed before us in the Writ Appeal filed by the Tamil Nadu Public Service Commission, i.e., W.A.No.3261 of 2019, by those who are also arrayed as writ petitioners and they are the persons who were declared not qualified in the technical qualification criteria having said to have not obtained the requisite experience from the Transport Department.

3.The only grievance raised before us is that the direction of the learned Single Judge not to declare the results of the written examinations and forward the list to the State Government may cause serious

prejudice to the applicants who are seeking impleadment before us and who are also the writ petitioners before the learned Single Judge and the writ petitions are said to be still pending and are going to be listed for hearing tomorrow.

4. In these circumstances, we request the learned Single Judge to decide the writ petitions expeditiously, after hearing all the concerned parties in the matter. We further direct that the effect of paragraphs 6 and 7 of the order dated 26.08.2019 shall not be given and status quo regarding appointment shall be maintained till the writ petitions are disposed of.

With these observations, the Writ Appeals are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed."

31. The matter again proceeded before the learned single Judge and the provisional list of selected candidates only mentioning their register numbers came to be published by the Tamil Nadu Public Service Commission on 01.11.2019 that has been placed on record. When the matter proceeded before the learned single Judge, a request was made for impleading all the 32 candidates and the following order was passed on 03.12.2019:

"This Writ Miscellaneous Petition has been filed seeking to implead 32 candidates, who have been called for Oral Test for the post of Motor Vehicle Inspector-Grade II, as Respondents 5 to 36, in the above Writ Petition.

2. It is seen that Tamil Nadu Public Service Commission (TNPSC) has published the names of the above 32 candidates in the website on 01.11.2019 so also their marks both in the Written Test and the Oral Test. These 32 candidates are under the zone of consideration for selection to the post of Motor Vehicle Inspector - Grade II. Therefore, it becomes necessary to make these 32 candidates as parties respondents in the present Writ Petition.

3. In view of the above, this Writ Miscellaneous Petition is allowed and all the 32 proposed respondents are impleaded as parties respondents in W.P.No.23670 of 2019. These respondents will be treated as respondents in all other connected Writ Petitions also.

4. Learned Standing Counsel for TNPSC shall furnish the addresses of all 32 candidates/respondents,

who have been impleaded in this petition by tomorrow i.e., 04.12.2019, giving a copy of the same to the learned counsel appearing for the petitioner in W.P.No.23670 of 2019.

5. TNPSC shall intimate the 32 candidates/respondents about their being impleaded in the Writ Petition.

6. In addition, the petitioners shall also serve Private Notice on the 32 impleaded respondents, returnable by 09.12.2019.

7. Learned Standing Counsel for TNPSC shall prepare a Typed Set of Papers, containing the following :

A) Tabular Column with the following details :

Serial No.	Name of the Candidate selected for Oral Test	Particulars of Workshop, which issue Certificate	Driving Experience of the Candidate

B) Proforma of all 32 candidates/impleaded respondents regarding the Workshop and also their Driving Experience.

8. A copy of the Typed Set shall be furnished to the learned counsel appearing for the writ petitioners in W.P.No.21986 of 2019, so that the learned counsel appearing for the petitioner/s in other Writ Petitions can take a copy of the same from the learned counsel appearing in W.P.No.21986 of 2019.

9. The above exercise shall be completed before the next date of hearing on 09.12.2019. 10. List the Writ Petition along with other connected matters on 09.12.2019 at 02.15 p.m.

32. It would be evident from the said order that the names of the 32 candidates were published on the website on 01.11.2019 and so also their marks both obtained in the written test as well as the oral test.

33. The writ petitions came to be finally disposed of by the impugned judgment dated 24.01.2020, where the learned single Judge proceeded to carve out a methodology by which he allowed the scrutiny of the 1328 candidates and further issued

directions for carrying out the selection process in terms of paragraph 44 of the impugned judgment, that is extracted hereinunder:-

"44.All the Writ Petitions are disposed of with the following directions:

(a) The Motor Vehicles Maintenance Department shall take up the process of verification of the Workshop Experience Certificates issued by the approved Automobile Workshop as defined in the explanation to Clause 6(B) of the Notification.

(b) The Workshop Experience Certificates shall be scrutinized by the Motor Vehicles Maintenance Department for all the 1328 candidates, who participated in the written examination.

(c) The verification/scrutiny shall be done with regard to all the Workshop Experience Certificates issued to the candidates, irrespective of the year in which it was issued.

(d) The Automobile Workshops are recognised/approved/certified only by the Motor Vehicles Maintenance Department and therefore, the department is expected to know the criteria/basis on which such recognition/approval/certification was granted and the records that are supposed to be maintained by these Workshops. The same shall be kept in mind while scrutinizing/verifying the Workshop Experience Certificates issued to the candidates by the concerned Workshop. The relevant records are already available and what requires to be verified is the authenticity of the certificates issued by the Authorised Workshops.

(e) It is open to the Motor Vehicles Maintenance Department to get clarifications from the candidates, if so required during the process of verification/scrutiny.

(f) The bench mark that is evolved by the Motor Vehicles Maintenance Department shall be equally applied across the board for all the candidates without any discrimination and this will ensure transparency in the entire process.

(g) The Motor Vehicles Maintenance Department at the time of considering the experience of the candidates who have worked on vehicles fitted with petrol engines

and diesel engines, need not disqualify a candidate for not possessing the experience with petrol engines. The State Transport Corporation has already dispensed with petrol engine run vehicles from the year 2014 onwards and therefore, it cannot issue Work Experience Certificate for candidates who worked in the State Transport Corporation for experience in vehicles fitted with petrol engines. Therefore, the experience with petrol engines and/or diesel engines can be taken into consideration provided the candidate has worked for a period of not less than one year.

(h) While considering the minimum period of one year, the Motor Vehicles Maintenance Department shall ensure that each candidate had worked atleast for 240 days in a given year. The Motor Vehicles Maintenance Department shall also ensure that candidates who had worked as a mechanic and are claiming consideration of their combined experience as a mechanic and as a driver, have done test driving in the course of their work. The full Bench of this Court in the judgment referred supra has clarified this position.

(i) Insofar as the driving experience certificate is concerned, a self-declaration shall be obtained from the person incharge of the Automobile Workshop in the format that has been appended to the memo filed by the Transport Commissioner.

(j) The Motor Vehicles Maintenance Department shall complete this process within a period of four weeks from the date of receipt of copy of this order and submit its report to the TNPSC.

(k) The TNPSC on receipt of the report from the Motor Vehicles Maintenance Department, shall independently apply its mind as a constitutional functionary under Article 320 of the Constitution of India and proceed to call all the eligible candidates for the oral test. It is also open to the TNPSC to seek clarification from the candidates in the course of certificate verification; and

(l) The TNPSC shall complete the process of final selection within a period of four weeks after it receives a report from the Motor Vehicles Maintenance Department and shall publish the fresh list of selected candidates on its website. By virtue of this order, the earlier selection list consisting of 32 candidates gets automatically effaced.

34. Having traversed the litigative history aforesaid, the contest that ensued was primarily on account of failure on the part of the Commission to have announced the tentative list of eligible candidates based on the marks obtained by the candidates in the written examinations. The grievance of the petitioners was that the tentative list of eligible candidates ought to have been notified first and after verification of the certificates, the oral test ought to have been held. We find that the learned single Judge had indicated this in the order dated 30.07.2019. It further appears that some of the petitioners who are the unsuccessful candidates had alleged that some of the 33 candidates who were provisionally selected had secured lesser marks than the petitioners. The learned single Judge, while finally passing the interim order on 26.08.2019, had indicated that it was imperative on the part of the Commission to have published the tentative list before certificate verification without mentioning the marks obtained by the individual candidates as that would provide clarity about the candidates to be eligible for being admitted to the next stage of selection of oral test and interview, after certificate verification. The learned single Judge also indicated that embarking on the certificate verification on the advice and directions of the Transport Commissioner was not in consonance with the procedure contemplated, as that amounted to putting the cart before the horse. It was further observed by the learned single Judge that once a particular procedure is contemplated in the notification, then such procedure needs to be adhered to without deviation or departure. Accordingly, the Commission was directed by the learned single Judge to announce the list of eligible candidates without disclosing the individual marks and publish it on the website as a tentative list based on the marks obtained by them in the written examination. Status Quo was directed to continue and the matter was fixed on 05.09.2019.

35. The Tamil Nadu Public Service Commission challenged the order of the learned single Judge in W.A.No.3261 of 2019. The Division Bench, after noticing all these facts, came to a converse prima facie view on the ground that Clause 13(a) read with 13(i) empowers the Commission to carry out verification at any time before or after main written examination or at the time of certificate verification and oral test and hence, if the verification was carried out simultaneously without publishing the tentative list, the same would not be in violation of the procedure. It was prima facie viewed by the Division Bench that this action of getting the verification done before the provisional list was published cannot be said to be manifestly arbitrary and the Division Bench, accordingly, stayed the operation of the interim order and directed the maintenance of status quo. However, when the matter came up for final disposal, the aforesaid prima facie view was continued as an

interim measure by observing that status quo regarding appointments shall be maintained till the matter is decided by the learned single Judge finally and till then, paragraphs 6 and 7 of the order of the learned single Judge dated 26.08.2019 shall not be given effect to. Thus, there was no final determination on the interpretation of Clause 10 and Clause 13 regarding selection procedure that was under contest.

36. When the matter was being finally heard before the learned single Judge, an exercise was undertaken of going through the records by the learned single Judge and the pleadings with regard to the discrepancies that were pointed out with regard to the possession of work experience certificate. The appellants, who are the successful candidates out of 33, urged that the learned single Judge relied on a chart that formed the basis of the conclusions drawn and which was in the shape of a tabulated column in W.P.No.22411 of 2019, where none of the selected candidates had been made a party and no opportunity had been given to rebut the same. It is contended that relying on such a tabulated chart and then to conclude that whatever was found to be a disqualification for the non-selected candidates was equally found for the selected candidates is not correct. To the contrary, it is sought to be pleaded before this Court that according to the standard as indicated by the learned single Judge himself, most of the non-selected candidates are not possessed of the requisite qualification.

37. What is important to be noted is that the learned single Judge in paragraph 43 clearly recited that "this Court does not want to go into the interpretation of Clause 10 and Clause 13 (i) of the notification at this stage". It is, therefore, clear that the learned single Judge did not enter into the controversy that was the primal issue raised in the writ petitions, namely, violation of the selection procedure as prescribed under Clause 10 read with Clause 13 (i) of the advertisement.

38. In our opinion, without entering into the said dispute, the learned single Judge did not adopt the correct procedure of adjudicating the controversy and rather went on to dilute the prescribed qualification of experience of a candidate to have worked on vehicles fitted with petrol and diesel engines. This is evident from Direction No.(g) of paragraph 44 of the final directions highlighted above.

39. The third issue is with regard to finding of errors in fact in the verification procedure where it is alleged that some of the successful candidates were not possessed of the requisite certificates, which were not genuine and could not have been treated as valid. The contention on behalf of the successful candidates that relying only on a tabulated chart without

verifying the documents should not have been made the basis to re-visit the entire selection process from the stage of verification.

40. In order to appreciate the arguments advanced and the issue involved, we first deal with the terms and conditions of procedure that have been prescribed in the advertisement. The power of the Commission to eliminate a candidate on the basis of incorrect documents relating to eligibility or the applications being not in conformity with the advertisement is preserved generally under Clause 13 (i), which is even before the written examination. It is to be noted that about 2176 applications were received by the Commission for the 113 posts in question. It is after scrutiny of these applications and the documents accompanying the same prior to the written examinations that 1328 candidates were informed and given a hall ticket for appearing in the written examinations conducted on 10.06.2018. Thus, the written examinations were itself held after scrutinising the applications and the documents that limited the number of permitted examinees to 1328 out of 2176 applicants. This is clearly relatable to the power available to the Commission in terms of Clause 13(i) of the advertisement. The written examinations were, therefore, held after the first stage of scrutiny of the applications that resulted in a reduced number of candidates being found eligible to undertake the written examination test.

41. This scrutiny, in our opinion, is the preliminary scrutiny which the Commission is empowered to undertake and is indicated in Clause 13(i).

42. This is a case where the selection procedure is specifically provided for under Clause 10, which indicates the stage after the written examinations. Clause 13(i) would again apply at this stage simultaneously along with the conditions prescribed under Clause 10. After the written examinations are held, the Commission is not denuded or precluded from taking any action on account of any discrepancy in the application form or the certificates, but, Clause 10 provides that the verification of the certificates, as distinct from the scrutiny of the application forms, has to be undertaken after publishing the tentative list of candidates on the website of the Commission. The distinction in the procedure is that prior to the written examinations, it is the scrutiny of the application forms for limiting the candidates to that number which satisfy the terms and conditions of the advertisement. This exercise can be undertaken even thereafter, but the obligation to publish the tentative list and thereafter undertake certificate verification continues to be binding on the Commission. The Commission, therefore, was under an obligation in terms of Clause 10, which,

in particular, provides for the uploading of a tentative list of candidates on the basis of their marks obtained in the written examinations who are to be invited for verification of the certificates before the second stage of selection of oral test. This stage is a further stage of elimination of those candidates whose certificates on verification are not found to be genuine or valid, thereby making them eligible or otherwise for the oral test. This list is to invite those candidates who have qualified the written examinations for the purpose of verification of the certificates and then to enable the Commission to prepare the provisional list in the ratio of 1:2 keeping in view the advertised number of vacancies for calling them to the interview. Thus, after the list is placed on the website on the basis of the written examinations, the verification of the certificates is to be carried out and after verification, the list of candidates equal to twice the number of the vacancies have to be forwarded to the Commission for holding of the oral test.

43. What the Commission appears to have done is that without publishing the list on the website, they called upon the Transport Commissioner, who entered upon this entire exercise of verification and then, submitted a list of 33 candidates as being only eligible for being interviewed for the posts in question. This was without any publication of the tentative list as indicated in Clause 10 of the selection procedure and it is the registration numbers of only these 33 candidates that were uploaded on the website treating it as tentative list as desired under Clause 10.

44. It is no doubt true that Clause 13(i) empowers the Commission to take action in respect of the scrutiny of applications and fulfilling all eligibility conditions by enquiring into a candidature either before or after the written examinations at any stage, but, that does not allow the Commission to skip over an important step of publishing the tentative list immediately after the written examinations. A private exercise excluding the candidates from having any knowledge of the results of the written examinations to verify the certificates is not the intention of Clause 10. The intention of Clause 10 is to make known the results of the written examinations to those candidates who have been found to be eligible in order to enable the Commission to verify their certificates and then, to forward the names of the candidates, equal to twice the number of vacancies for oral test.

45. The purpose for such publication of tentative list is to let the candidates know as to whether they stand up to the prescribed standards or not. We may point out that as per Clause 8 of the Scheme of Examinations extracted hereinabove,

there are two papers, one relating to Diploma standard engineering with a maximum of 300 marks and the second paper relating to general studies of 200 marks. The first paper which is objective type OMR method has 200 questions and the second paper has 100 questions. The Interview and Records (Oral test) is of a maximum of 70 marks. Thus, the maximum marks of written and oral combined are 570.

46. From the minimum qualifying marks for selection in the same chart, we find that the reserved category candidates have to achieve at least 171 marks, which means that even they are allotted 70 marks in interview, they have to have a minimum qualifying of 101 marks in the written examinations out of 500 maximum marks. Similarly, for the open category candidates, even if the candidates get full 70 marks in interview, they have to obtain at least 142 marks in the written examination. It would, thus, be evident that candidates of the reserved category having less than 101 marks and the candidates of the open category having less than 142 marks cannot qualify in the final selections even if they are given the marks of 70 marks in the interview. The tentative list, therefore, has to be necessarily prepared to declare as to the number of candidates who would be able to reach the stage of oral test and which has to be done internally by the Commission without disclosing the individual marks publicly. This non-disclosure of individual marks in the written examination, therefore, has to be adhered to in order to avoid any influence on the awarding of marks in the interview. We will discuss this issue later in the judgment on the facts of the present case, but, we find full justification for the procedure of uploading the names of the candidates to be included in the tentative list immediately after the written examinations, whereafter the verification process is to be carried out. It may not be necessary for the Commission to undertake the exercise of verifying certificates even of those candidates who are unable to fulfil the minimum standards of the written examination as explained above. The learned single Judge, therefore, while passing the interim order on 26.08.2019, was fully justified in proceeding on this prima facie view that the Commission has omitted to undertake an exercise thereby putting the cart before the horse. We also find that the aforesaid logical exercise in order to understand the inter-play of Clause 10 read with Clause 13(i) was not undertaken by the Division Bench while passing the interim order on 24.09.2019. The Division Bench did say that both the Clauses have to be read in conjunction, but the general power under Clause 13(i) does not in any way obliterate or make the provision of publishing the tentative list on the website non-compulsory. Since the final disposal in the said writ appeal did not enter into this question, and the learned single Judge did not find it necessary to undertake this exercise while deciding the matter, we have,

for the reasons given hereinabove, found it imperative to consider the same and our conclusion on the basis of the reasons given hereinabove is that the Commission having failed to publish the tentative list of the candidates immediately after the written examinations has clearly violated the procedure prescribed for undertaking further steps in aid of the selection.

47. To us, it appears as if this entire exercise of preparing the list was handed over to the Transport Commissioner, who prepared the provisional list finally that came to be uploaded by the Commission. The Commission, therefore, clearly abdicated its essential function as prescribed under Clause 10 of the advertisement, which has resulted in prejudice to those candidates whose names could have figured in the tentative list and they could have been eliminated only after their verification. The Transport Commissioner virtually reversed this process and the Commission erroneously conceded to the same. This anomaly in the process adopted by the Commission becomes even clearer on examining paragraph 23(b) of the Instructions to Applicants, which is referred to in Clause 10 and is, inter alia, as under:

"23(b). Posts for which selection is made on the basis of Written Examination and Oral Test: Where the selection is made on the basis of both, Main Written Examination/Written Examination and Oral Test, the Main Written Examination/Written Examination will precede the Oral Test. Before the Oral Test applicants in a suitable ratio depending on the vacancy in each reservation category as decided by the Commission will be called for "Certificate Verification". So applicants called for Certificate Verification must be aware that this exercise is done only to ascertain their eligibility to participate in further selection process and it cannot be construed as the exact list of applicants to be admitted to the oral test. After due verification the proper ranking is arrived by deleting the ineligible applicants. If the number of vacancies notified/reserved to be filled up for any one or more of the reservation groups (viz. Scheduled Castes, Scheduled Caste (Arunthathiyars), Scheduled Tribes, Most Backward Classes/Denotified Communities, backward Classes other than Muslim) or Backward Classes (Muslim) or General Turn is five and above, the number of applicants to be admitted to the Oral test shall be two times the number of vacancies for which recruitment has to be made against those reservation groups based on the marks obtained by

the applicants at the Main Written Examination or Written Examination, as the case may be."

(emphasis added).

48. Mr. Subramaniyan, one of the learned counsel representing the persons seeking impleadment, also pointed out that because the details of selected candidates were unavailable, a request was made by his client under the RTI Act and, in response thereto, the documents at page Nos. 180 to 276 of the typed set of papers in C.M.P. No. 7416 of 2020 were received. From and out of these documents, he referred to the workshop verification report in respect of the candidate, N. Sasikumar, at page No. 250 of the said typed set of papers. This report indicates that N. Sasikumar obtained the automobile workshop experience at ABT Industries Ltd., Madurai, whereas the approval by the Director of the Motor Vehicles Maintenance Department was given to ABT Industries Ltd., Erode, on 21.12.2018. He further referred to his additional affidavit to contend that his client had obtained higher marks than the selected candidate, Mr. Varadarajan. He also referred to the annexure to his additional affidavit dated 09.12.2019 wherein the relevant details pertaining to the 32 selected candidates are set out in tabular form along with reasons as to why the said candidates should not have been selected. With specific reference to this tabulation, he pointed out that if the criteria such as non-availability of proof of remittance of ESI/PF or non-availability of attendance registers were to be applied to selected candidates, they too should have been rejected. For instance, it is stated therein that Mr. Raja Mohamed, one of the selected candidates obtained an experience certificate from NS Auto Electrical Works, Ramanathapuram. In respect of this workshop, ESI and PF details are unavailable and the attendance register has not been verified by the labour inspector. Likewise, in respect of another selected candidate, Mr. Ravishankar, it is stated that his experience certificate is from Balaji Engineering Works, Karaikudi. It is stated that this workshop is not working and that, therefore, verification could not have been carried out. We find that these statements were not effectively rebutted. In addition, upon rigorous analysis, the Writ Court concluded that the reasons for rejection of many of the candidates, if applied consistently, should have resulted in the rejection of many of the 32 selected candidates also. Thus, the flaws in the experience certificate verification process were highlighted and demonstrated successfully by counsel. As a corollary, we conclude that the selection process is vitiated in this regard.

49. Mr. Subramaniyan has cited the judgment in the case of *Buddhi Nath Chaudhary vs. Abahi Kumar*, (2001) 3 SCC 328, to contend that the Transport Commissioner could not have been

entrusted with the said job of verification as the Public Service Commission in terms of Article 320 of the Constitution of India is an autonomous authority. In the case before the Supreme Court, it appears that when a challenge was raised before the High Court relating to the qualifications/experience in the matters of appointment of Motor Vehicles Inspectors in the State of Bihar, a learned single Judge issued a direction to the Transport Commissioner to do that exercise. A writ appeal was filed against the same and the Division Bench of the High Court set aside the report that had been sent by the Transport Commissioner. The Supreme Court frowned upon the said process and stated in paragraph 5 as under:

"5. We fail to understand as to how the matter of selection and appointment to a post could have been entrusted to the Transport Commissioner when the Commission had been specifically entrusted with such a job and such Commission, which is an autonomous authority having a constitutional status, has selected the candidates whose appointments were in challenge. If the selection of these candidates was improper the same should have been set aside with appropriate directions to redo the process of selection or at best, the High Court could have directed the Government, which is the appointing authority, to take appropriate steps in the matter. However, in the facts and circumstances of this case, we need not dilate on this aspect nor do we need to examine various elaborate contentions addressed by either side. Suffice to say that all the selected candidates, who are in employment, except one, possess necessary qualification and in regard to that one excepted candidate, it cannot be disputed that he possesses equivalent qualification. Thus the dispute narrows down to one aspect, that is, the selected candidates may not possess necessary experience which is now required to be examined by the Transport Commissioner."

50. The Supreme Court therefore only made the observation that a decision with regard to selection and appointment of the selected candidates could have been sent only to the Government or if the selections were invalid, a direction could have been issued to redo the process. But, the Transport Commissioner was not required to undertake this exercise. The matter was disposed of on other considerations.

51. In this regard, we may point out that here it is a process of verification which was entrusted to the Transport Commissioner and not an issue of determination of selection and appointment of the already selected and appointed candidates,

which was the issue in Buddhi Nath Chaudhary's case (supra). Certainly, where the Commission is the selection body, the Transport Commissioner cannot undertake that exercise, but in the present matter, no such exercise was undertaken by the Transport Commissioner as involved in the case before the Supreme Court. To the contrary, we find justification in the stand taken by the Tamil Nadu Public Service Commission that under the Rules of Procedure for Tamil Nadu Public Service Commission, a copy whereof has been placed before us, and which is stated to be in force with effect from 14.05.1996, provides for as follows:

"26. The Commission may at any time, call for from the State Government or from any Head of a Department or any other authority subordinate to the State Government, any records, report or information which may, in its view, be necessary to enable it to discharge its functions; and such record, report or information shall be furnished to the Commission without undue delay by the State Government or Head of the Department or any other authority concerned unless the Governor of Tamil Nadu certifies that the same (a) cannot be furnished without undue labour or (b) should be withheld in the public interest."

52. Learned counsel, Mr. Subramaniam, has vehemently contended that such rules do not have any statutory force and consequently, the Commission could not have undertaken any such exercise. The aforesaid argument is an argument in futility inasmuch as even otherwise the Commission, in order to carry out verification with regard to certificates issued by authorities or institutions, as the case may be, may collect information and material in order to ascertain as to whether such issued certificates are genuine or not. None of the candidates have raised a challenge to the power of the Commission to collect information for the purposes of verification of the certificates from the sources of their origination or from the Department which has control over such organisations. This is a reasonable method in order to ascertain the correctness or otherwise of the certificates relied on by the candidates in order to find out as to whether it is fake or genuine. The Public Service Commission is entitled to verify as to whether a particular certificate has been obtained from a genuine source or not. To that extent, even an internal procedure adopted by the Commission cannot be said to be irrelevant as there is no challenge raised that the Commission does not have the power to verify. The verification can be reasonably carried out as it relates to the issuance of experience certificates by institutions and workshops in the present case. An automobile workshop which has been defined can also be of the State Government, of the State Transport

Corporation or an automobile workshop recognised or approved or certified by the Transport Commissioner or the Director of Motor Vehicles Maintenance Department. Thus, the aforesaid provisions indicate that the automobile workshops are to be recognised or approved or certified by the Transport Commissioner or the Director of Motor Vehicles Maintenance Department. Since they are the authorities to recognise or approve or certify an automobile workshop, a request to these authorities to ascertain the authenticity and reliability of the certificates issued by any automobile workshop is perfectly in order and to that extent, the argument that there is no statutory force in the procedure adopted is untenable as it is inherent in the power of the Commission to undertake any such exercise of verification, the authorisation whereof is not under challenge.

53. Thus, having found that the process of the tentative list having not been uploaded on the website after the written examinations, we find that the learned single Judge has not committed any error to that extent and issuing a direction for verifying the certificates of the candidates who had sat in the written examinations.

54. The appellants have also raised an issue that the learned single Judge even if had arrived at the conclusion that the procedure was vitiated, he could not have directed the verification of certificates of all the 1328 candidates. There are two aspects on this argument, which deserve consideration, namely, that this issue was raised by two candidates in W.A.No.411 of 2020 and this Division Bench, vide judgment dated 05.06.2020 repelled the said contention by the following judgment:

"The learned Single Judge while disposing of a writ petition preferred by the appellants questioning the process of selection by the respondent/Commission for the post of Motor Vehicle Inspector Grade - II in the Tamil Nadu Transport Subordinate Service, issued directions to carry out the process of selection after verifying and scrutinizing the certificates of all the 1328 candidates, who participated in the written examination.

2. The appellants herein have assailed the said judgment and Mrs.Nalini Chidambaram, learned Senior Counsel for the appellants, has raised a limited plea to the effect that while the Court declined to go into the interpretation of Clauses 10 and 13(i) of the Notification, has proceeded to open up the process of selection in respect of all the 1328 candidates who had participated in the written examination and this, according to the learned Senior Counsel, was

unjustified in as much as all the candidates had not approached this Court challenging the selection process and, therefore, the said relief granted by the learned Single Judge even to those who had not come to the Court should be set aside.

3. Since there is only a limited challenge raised to the said aspect, we are not entering into the merits of the judgment on any other issue. The thrust of challenge is guided only against paragraphs 42 and 43 of the impugned judgment to the extent indicated above.

4. For this, learned Senior Counsel has invited the attention of the Court to the aforesaid two clauses. Referring specifically to Clause 10 of the Notification, it is emphasized that based on the marks obtained by the candidates in the written examination, the tentative list of eligible candidates for certificate verification will be announced in the Commission's website. Learned Senior Counsel contends that extending this benefit to all the candidates, including those who had not approached the Court, will swell this list and this will affect the rights of the appellants and such other similarly situate candidates, who will now be comparatively adjudged along with those candidates who had not approached this Court.

5. We are unable to accept this contention and do not view it as a legal or fundamental right in favour of the appellants so as to exclude those who had not approached the Court. The learned Single Judge has delved into the entire selection process and thereafter has issued directions, which do not confine only to the rights of those who had filed a writ petition, but also extend to those candidates who were similarly and equally placed as the appellants, and had appeared in the written examinations. To discriminate them would be violative of Articles 14 and 16 of the Constitution of India, and such violation should not emanate ordinarily on account of any judicial review undertaken by this Court under Article 226 of the Constitution of India, unless it causes any substantial prejudice to the candidates or otherwise would amount to burdening the entire process of selection.

6. In the instant case, it is only a matter of 1328 candidates in all, including the appellants and the writ petitioners who had come before this Court. To re-do the exercise after including those who had not approached this Court is not going to burden the

respondent Commission. The expansion of the zone of consideration by including all the candidates is only to allow participation of those who were participants in the same process of selection and are not outsiders. In such a situation, to the extent of the challenge raised in the present appeal, we are unable to find any fault with the direction issued by the learned Single Judge in accommodating all the 1328 candidates.

We, therefore, find no merit in this appeal and the same is accordingly rejected. No costs. Consequently, C.M.P.Nos.6469, 6470 and 6472 of 2020 are closed."

55. The second aspect is equally important namely that while the litigation was pending before the Division Bench in the appeal against the interim order, there were directions not to declare the results or to declare it and keep them in sealed covers and to maintain the status quo. In spite of this, it is evident that the Tamil Nadu Public Service Commission proceeded to disclose the marks of the 33 people vide letter dated 04.11.2019. This was preceded by a publication on the website on 01.11.2019 and the marks of the 33 candidates were disclosed and have also been filed along with the typed set of papers indicating the same both in a consolidated form and individual intimations sent to all the 33 candidates. Thus, in respect of the 33 candidates, the marks of the written examinations as well as the oral test had both been disclosed. This is not in tune with the directions of this Court, but nonetheless, when it has already been disclosed, we see no reason on the peculiar facts of this case under these circumstances as to why the marks of the other candidates should not be made known in the background of the entire litigation. The learned single Judge was, therefore, justified in issuing a direction for proceeding with the verification of the certificates of all the 1328 candidates and after the process of verification is over, the candidature of such of those candidates whose verification is found in order are entitled to be considered for being sent up for interview while maintaining the ratio of 1:2 against the number of vacancies advertised. We, therefore, do not find any substantial error in the direction of the learned single Judge in calling upon the Commission to verify the certificates of all the 1328 candidates.

56. We would further add that the petitioner in C.M.P.No.8490 of 2020 in W.A.No.445 of 2020, namely, S.Murugan, represented by M/s.Selvi George, learned counsel, has appeared in the written examination, pursuant to order dated 08.06.2018 passed in W.M.P.No.16431 of 2018 in W.P.No.13896 of 2018, therefore, his results are also to be declared and in the event

he has achieved the minimum qualifying standards, his certificates also deserve to be verified in addition to the 1328 candidates. This would, however, be subject to the outcome of W.P.No.13896 of 2018.

57. There is another finding given by the learned single Judge, which, in our opinion, cannot stand the scrutiny of law, namely, the direction given in paragraph 44 (g) of the judgment that has already been extracted hereinabove. The question is, could the learned single Judge have diluted the requirement of experience of such candidates who had their certificates from the Motor Vehicles Maintenance Department of the State Transport Corporation. The reason given by the learned single Judge is that since the State Transport Corporation has dispensed with the petrol engine run vehicles from the year 2014 onwards, therefore, it could not issue a work experience certificate for candidates who had worked in the State Transport Corporation for experience in vehicles fitted with petrol engines. This via media was adopted by the learned single Judge to facilitate those candidates who had certificates only on working with diesel engines in workshops of the Motor Vehicles Maintenance Department of the State Transport Corporation. In our considered opinion, the High Court could not have diluted a statutory rule by granting this concession as this will clearly amount to creating a separate unequal class thereby violating Article 14 and 16 of the Constitution of India. As against all other candidates who might have work experience in workshops with work experience on both petrol and diesel engines fitted vehicles, such of the candidates who have worked only in the State Transport Corporation Motor Vehicles Maintenance Department cannot be granted a concession as the post of Motor Vehicles Inspector Grade II carries with it a post of responsibility to be discharged in respect of the vehicles registered under the Motor Vehicles Act, whether private or Government. Thus, their job is to inspect both petrol fitted engine vehicles as well as diesel engine fitted vehicles. To dilute the experience merely because they have attended one particular class of workshop would, therefore, be violating the prescribed rule under the Statute, namely, Rule 5(b) (2) of the Tamil Nadu Transport Subordinate Service Rules. The rule, admittedly, has neither been amended nor modified. The rule, therefore, cannot be modified by a judicial review as this Court under Article 226 of the Constitution of India cannot be presumed to have such powers. The prescription of rule by the rule-making authority cannot be diluted unless it is found to be unlawful or invalid under any law for the time being in force. The power to dilute a rule for the purpose of making appointment would be changing the rules of the game by a judicial intervention which is not even permissible by the rule-making authority itself, after the selection process has been set into

motion. A strict adherence to the existing statutory provisions is, therefore, the law laid down by the Apex Court. The reduction of or addition of any such requirement in rules can be done by the rule-making authority alone and in the absence of any amendment, we do not find any justification for virtually reading down a rule in order to make it convenient for a certain class of candidates who are unable to provide the work experience certificate as prescribed. This would be certainly not in tune with the principles of Article 14 and 16 of the Constitution of India, as is evident from the facts of the present case and the statutory rule applicable. So long as the rule stands, this course was not open for the learned single Judge to have waived an essential requirement of work experience which is required for the particular nature of duties to be performed as a Motor Vehicles Inspector. On this, we find that the learned single Judge has issued a direction which is unsustainable in law. We, therefore, set aside Direction no.44 (g) and modify the judgment accordingly.

58. There is another argument on the merits of the matter, namely, about the learned single Judge having relied on a tabulation chart that was part of W.P.No.22411 of 2019 and having proceeded with the matter in spite of the fact that none of the selected candidates were impleaded as parties therein.

59. It is true that a writ petition has to proceed after impleading proper and necessary parties. This was long before enunciated in *Udit Narain Singh Malpaharia vs. Additional Board of Revenue, Bihar and Anr.*, AIR 1963 SC 786. In a service jurisprudence, to obtain a particular relief more so in the matters of selection where selections are under challenge, it has been held by the Supreme Court in the case of *J.S.Yadav vs. State of Uttar Pradesh and Anr.*, (2011) 6 SCC 570, in paragraph 31 as follows:

"31.No order can be passed behind the back of a person adversely affecting him and such an order if passed, is liable to be ignored being not binding on such a party as the same has been passed in violation of the principles of natural justice. The principles enshrined in the proviso to Order 1 Rule 9 of the Code of Civil Procedure, 1908 provide that impleadment of a necessary party is mandatory and in case of non-joinder of necessary party, the petitioner-plaintiff may not be entitled for the relief sought by him. The litigant has to ensure that the necessary party is before the court, be it a plaintiff or a defendant, otherwise the proceedings will have to fail. In service jurisprudence if an unsuccessful candidate challenges the selection process, he is bound to implead at least some of the

successful candidates in representative capacity. In case the services of a person are terminated and another person is appointed at his place, in order to get relief, the person appointed at his place is the necessary party for the reason that even if the petitioner-plaintiff succeeds, it may not be possible for the Court to issue direction to accommodate the petitioner without removing the person who filled up the post manned by the petitioner-plaintiff. (Vide Prabodh Verma v. State of U.P. [(1984) 4 SCC 251 : 1984 SCC (L&S) 704 : AIR 1985 SC 167] , Ishwar Singh v. Kuldeep Singh [1995 Supp (1) SCC 179 : 1995 SCC (L&S) 373 : (1995) 29 ATC 144] , Tridip Kumar Dingal v. State of W.B. [(2009) 1 SCC 768 : (2009) 2 SCC (L&S) 119] , State of Assam v. Union of India [(2010) 10 SCC 408 : (2010) 2 SCC (L&S) 812 : (2010) 4 SCC (Civ) 187] and Public Service Commission v. Mamta Bisht [(2010) 12 SCC 204 : (2011) 1 SCC (L&S) 208 : AIR 2010 SC 2613] .) More so, the public exchequer cannot be burdened with the liability to pay the salary of two persons against one sanctioned post."

60. It is correct that the successful candidates had not been made parties in the aforesaid writ petition. But, we find that before the learned single Judge, all the 32 candidates were directed to be impleaded vide order dated 03.12.2019, which is extracted supra at paragraph 32.

61. Apart from this, the learned counsel have placed typed set of papers with regard to the workshop experience certificates and the verification reports that have been submitted by the authorities and even before this Court to demonstrate as to the errors in the work experience certificate of the selected candidates. Having gone through the same, we are satisfied that there are discrepancies pointed out and in the given circumstances, the learned single Judge was justified in doubting the correctness or otherwise of the certificates and issuing a direction for a fresh verification. This process does not vitiate and rather consolidates the selection process inasmuch as a re-verification by the appropriate authorities may take a little time, but that would certainly add probity to the process of selection.

62. It is needless to emphasize that the selected candidates enjoyed the status only of an empanelled candidate and they do not have any vested right of claiming that they are entitled to be selected and appointed. Paragraph 24 of the judgment in the case of Rakhi Ray vs. High Court of Delhi and Others, (2010) 2SCC 637, is extracted hereinunder in support of that conclusion:

"24.A person whose name appears in the select list does not acquire any indefeasible right of appointment. Empanelment at the best is a condition of eligibility for the purpose of appointment and by itself does not amount to selection or create a vested right to be appointed. The vacancies have to be filled up as per the statutory rules and in conformity with the constitutional mandate. In the instant case, once 13 notified vacancies were filled up, the selection process came to an end, thus there could be no scope of any further appointment."

63. The question as to whether it is necessary to set aside the entire selection if it is vitiated is no longer res integra and suffice it to refer to the decision which has been cited at the bar in the case of *Joginder Pal vs. State of Punjab*, (2014) 6 SCC 644, where the Court examined the nature of cases in order to draw a distinction as to whether due to the misdeed of some candidates, honest and meritorious candidates should also suffer. The present is a case where the selections had proceeded, but had not attained finality by way of any appointment. It is evident from the facts that have emerged in this case that firstly, the Commission omitted the procedure of uploading the tentative list on the website and therefore, the entire process thereafter is vitiated. It is, therefore, not a case simply of tainted and untainted certificates of work experience that has to be taken into account. Nonetheless, on the said issue also, as the facts have emerged, if the provisional list of 33 candidates has been published with those candidates whose work experience certificates or any other eligibility certificates is wanting as per the advertisement, then too, no prejudice would be caused in verifying the correctness or otherwise of the certificates of these 33 candidates once again. It is not impossible to conduct the said exercise. Consequently, we are of the view that in the cumulative background of the case, the direction of the learned single Judge to carry out the verification of the certificates once again cannot be said to be unjustified and we approve of the same. The exercise undertaken by the Transport Commissioner to conduct the verification through the Regional Transport Officer or by the Transport Commissioner/Deputy Transport Commissioner has still resulted in discrepancies as noted by the learned single Judge and pointed out by the learned counsel through the typed set of papers. In such circumstances, the verification earlier carried out and the consolidated report submitted on 21.02.2019 require a re-visit. Verification is to confirm or establish the truth or truthfulness or to confirm or substantiate the authenticity of a document. The Transport Department can very well carry out the said exercise, but the

same does not appear to have been carried out earnestly and has given rise to serious doubts as pointed out by the learned single Judge and the documents on record. The process having been reversed and the verification not having been found to inspire confidence, we find that the process from the stage of verification of documents as directed by the learned single judge in respect of all the candidates is essential.

64. Consequently, the Writ Appeals are partly allowed to the extent that Direction no.44(g) of the learned single Judge is set aside and the issues raised stand answered as per the observations made hereinabove. The result is that the verification of the work experience certificates, validity of the licence and the driving experience certificates as per Clause 10 of the advertisement be carried out, whereafter a list of candidates in the ratio of 1:2 of the vacancies shall be drawn up, in compliance with the advertisement, including Clause 8 thereof, and such candidates shall be sent up for the oral test. In addition, the verification shall also be carried out in respect of Mr.Murugan, petitioner in C.M.P.No.8490 of 2020 in W.A.No.445 of 2020, subject to the caveat that his selection would be subject to the outcome of W.P.No.13896 of 2018. Except to the extent indicated herein, all the other directions in paragraph 44 of the learned single Judge's order shall continue to be binding.

65. There is one more argument which is required to be answered in this context, namely that the parties who are at variance as to the number of candidates who are to be sent for oral test in case their certificates are found to be valid. It is the contention of the unsuccessful candidates that more vacancies have come into existence, which fact has also been admitted by the learned Advocate General and it is, therefore, submitted that in terms of the advertisement which declares the number of vacancies may be varied from the 113 vacancies announced, the Commission can be directed to proceed with the enhanced number of vacancies.

66. As against this, the contention of the learned counsel for the selected candidates is that it is not within the powers of the Commission to travel beyond the number of vacancies advertised, as this would violate the rights of those candidates who, against the subsequent vacancies, would be eligible and qualified. On this count, we find the contention of the learned counsel to have been dealt with by the Apex Court in paragraphs 7 and 12 of the judgment in the case of Rakhi Ray (supra), the same are extracted hereinunder:

"7.It is a settled legal proposition that vacancies cannot be filled up over and above the

number of vacancies advertised as "the recruitment of the candidates in excess of the notified vacancies is a denial and deprivation of the constitutional right under Article 14 read with Article 16(1) of the Constitution", of those persons who acquired eligibility for the post in question in accordance with the statutory rules subsequent to the date of notification of vacancies. Filling up the vacancies over the notified vacancies is neither permissible nor desirable, for the reason, that it amounts to "improper exercise of power and only in a rare and exceptional circumstance and in emergent situation, such a rule can be deviated from and such a deviation is permissible only after adopting policy decision based on some rationale", otherwise the exercise would be arbitrary. Filling up of vacancies over the notified vacancies amounts to filling up of future vacancies and thus, is not permissible in law. (Vide Union of India v. Ishwar Singh Khatri [1992 Supp (3) SCC 84 : 1992 SCC (L&S) 999 : (1992) 21 ATC 851], Gujarat State Dy. Executive Engineers' Assn. v. State of Gujarat [1994 Supp (2) SCC 591 : 1994 SCC (L&S) 1159 : (1994) 28 ATC 78], State of Bihar v. Secretariat Asstt. Successful Examinees Union 1986 [(1994) 1 SCC 126 : 1994 SCC (L&S) 274 : (1994) 26 ATC 500 : AIR 1994 SC 736], Prem Singh v. Haryana SEB [(1996) 4 SCC 319 : 1996 SCC (L&S) 934] and Ashok Kumar v. Banking Service Recruitment Board [(1996) 1 SCC 283 : 1996 SCC (L&S) 298 : (1996) 32 ATC 235 : AIR 1996 SC 976] .)

....

12. In view of above, the law can be summarised to the effect that any appointment made beyond the number of vacancies advertised is without jurisdiction, being violative of Articles 14 and 16(1) of the Constitution of India, thus, a nullity, inexecutable and unenforceable in law. In case the vacancies notified stand filled up, the process of selection comes to an end. Waiting list, etc. cannot be used as a reservoir, to fill up the vacancy which comes into existence after the issuance of notification/advertisement. The unexhausted select list/waiting list becomes meaningless and cannot be pressed in service any more."

67. The Notification and the Instructions issued by the Commission do indicate that the number of vacancies advertised are approximate and can vary. Clause 12C of the Advertisement is extracted herein under:

"12. GENERAL INFORMATION

C.The number of vacancies advertised is only approximate and is liable to modification including reduction with reference to vacancy position, at any time before finalization of selection."

Clause 1 of the Instructions to Applications issued by the Commission reads as follows:

"1. NOTIFICATION OF VACANCIES - The Tamil Nadu Public Service Commission notifies vacancies for various posts in the Commission's website and Newspapers. The number of such vacancies notified by the Commission is only approximate and is liable for modification with reference to vacancy position at any time before or at the time of actual recruitment.

Combining the aforesaid expressions used in the Advertisement and the Instructions to Applicants issued by the Commission as contained in Clause 12-C of the Advertisement and Clause (1) of the Instructions to Applicants with the observations made by the Apex Court in the judgment quoted above, it would be appropriate that the decision to accommodate more vacancies over and above the 113 advertised is taken by the Commission itself as enough time has been consumed in litigation even before the selection process could conclude inasmuch as no appointments could be made as the provisional list of 33 candidates could not be finalized due to the proceedings pending before the High Court. This is therefore a peculiar situation that has emerged about which the Commission will have to take a decision in consultation with the Government which shall be finalized before the number of candidates are shortlisted in the ratio of 1:2. The Commission and the State Government are requested to conclude the entire proceedings as directed by the learned Single Judge in the impugned judgment and the time period allocated for the same by the learned Single Judge shall start running from today.

68. The Writ Appeals are partly allowed and disposed of accordingly. No costs. The applications for impleadment have also been heard through the respective counsels and they also stand disposed of at the SR stage itself.

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Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sra

To

1. The Secretary to Govt. of Tamil Nadu,
Transport Dept., Fort St. George,
Chennai 600 009.
2. The Controller of Examinations,
Tamil Nadu Public Service Commission,
TNPSC Road, V.O.C. Nagar,
Park, Town, Chennai 600 003.
3. The Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road, V.O.C.Nagar,
Park Town, Chennai 600 003.
4. The Transport Commissioner,
Transport Dept., Ezhilagam,
Chepauk, Chennai 600 005.

+2cc to M/s.N.K.Ponraj, Advocate, S.R.No.27315
+1cc to M/s.P.Srinivas, Advocate, S.R.No.27316
+1cc to M/s.A.L.Gandhimathi, Advocate, S.R.No.27252
+1cc to M/s.C.Uma, Advocate, S.R.No.27038
+1cc to the Government Pleader, S.R.No.27088

W.A.Nos.509, 445 and 501 of 2020

VSNII (CO)
CS/09/11/2020

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