

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 11.11.2020

Delivered on 24.11.2020

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

**W.P.Nos.10667, 10138, 5607 & 5609 of 2020
and
WM.P.No.12954 of 2020**

W.P.No.10667 of 2020

B.Mohamed Ali

... Petitioner

Vs

1. The Commissioner of Labour,
DMS Complex,
Teynampet,
Chennai - 600 006.
2. The Secretary,
Tamil Nadu Construction Workers
Welfare Board,
No.8, Valluvar Kottam High Road,
Nungambakkam,
Chennai - 600 034.

3. The TamilNadu Construction Workers
Welfare Board,
rep. by its Chairman,
No.8, Valluvar Kottam High Road,
Nungambakkam,
Chennai - 600 034.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India
praying Writ of Certiorarified Mandamus to call for the records relating to
the impugned Press Release No.85 dated 29.01.2020 issued by the 2nd
respondent and quash the same and consequentially direct the respondents
to publish the merit list for the recruitment for the post of Data Entry
Operator on the basis of the written and computer examinations held on
17.11.2019 and 30.11.2019.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.V.Jayaprakash Narayanan,
Government Pleader

W.P.No.10138 of 2020

A.Thamburaj

... Petitioner

Vs

1. The Commissioner,
Labour and employment department,
Government of Tamil Nadu,
DMS Complex, Teynampet,
Chennai - 600 006.
 2. The Chairman,
Tamil Nadu Construction Workers
Welfare Board,
No.8, Valluvar Kottam High Road,
Nungambakkam,
Chennai - 600 034.
 3. The Secretary,
TamilNadu Construction Workers
Welfare Board, No.8, Valluvar Kottam High Road,
Nungambakkam,
Chennai - 600 034.
- ... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India
praying Writ of Certiorarified Mandamus to call for the records of the 2nd
respondent leading to the impugned Press Release No.85 dated 29.01.2020
and quash the same and consequently direct the 2nd respondent to publish

the final results for the recruitment for the post of Junior Assistant in pursuance of and in accordance with the Notification bearing No.2/2018 dated 17.10.2018.

For Petitioner : Mr.T.V.Ramanujam,
Senior counsel
for Mr.B.Arvind Srevatsa

For Respondents : Mr.V.Jayaprakash Narayanan,
Government Pleader

W.P.No.5607 of 2020

1. Raghu.M.G.

2. Sankar

3. Gayathri

... Petitioners in W.P.No.5607/2020

Vs

1. The Commissioner,
Labour Department,
Government of Tamil Nadu,
DMS Complex, DMS Subway,
Teynampet,
Chennai - 600 006.

2. The Chairman,
Tamil Nadu Construction Workers
Welfare Board,
No.8, Valluvar Kottam High Road,
Nungambakkam, Chennai - 600 034.

3. The Secretary
Tamil Nadu Construction Workers
Welfare Board,
No.8, Valluvar Kottam High Road,
Nungambakkam,
Chennai - 600 034. ... Respondents in both the W.Ps.

Prayer:

Writ Petition filed under Article 226 of the Constitution of India
praying Writ of Mandamus to direct the respondents herein to publish the
result of the recruitment for the post of Junior Assistant based pursuant to
the recruitment conducted vide Publication Vide No.2/2018 dated
17.10.2018 on the basis of the representation dated 12.02.2020 given to the
respondents.

For Petitioners : Mr.T.Muruganantham

For Respondents : Mr.V.Jayaprakash Narayanan,
Government Pleader

W.P.No. 5609 of 2020

1. Samuel

2. G.Saravanamurthy

... Petitioners

Vs

1. The Commissioner,
Labour Department,
Government of Tamil Nadu,
DMS Complex, DMS Subway,
Teynampet,
Chennai - 600 006.

2. The Chairman,
Tamil Nadu Construction Workers
Welfare Board,
No.8, Valluvar Kottam High Road,
Nungambakkam,
Chennai - 600 034.

3. The Secretary
Tamil Nadu Construction Workers
Welfare Board,
No.8, Valluvar Kottam High Road,
Nungambakkam,
Chennai - 600 034.

... Respondents in both the W.Ps.

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying Writ of Mandamus to direct the respondents herein to publish the result of the recruitment for the post of Data Entry Operator/ computer Operator pursuant to the recruitment conducted by the 3rd respondent vide Publication Vide No.2/2018 dated 17.10.2018 on the basis of the representation dated 12.02.2020 given to the respondents.

For Petitioner : Mr.T.Muruganantham
For Respondents : Mr.V.Jayaprakash Narayanan,
Government Pleader

COMMON ORDER

The matter is taken up through web hearing.

2. The issue to be decided in all these writ petitions is identical and therefore, these writ petitions are disposed of as under by a common order.

3. The facts and circumstances narrated hereunder would hold good for all the writ petitions.

4. All the writ petitioners have responded to the notification issued

by the 2nd respondent Board dated 17.10.2018 (Notification No.2/2018) inviting applications for filling up the posts of Junior Assistants and Data Entry Operators in the 2nd respondent Board. The number of vacancies invited to be filled up in the category of Data Entry Operator was 111 and for Junior Assistant was 66. These petitioners had applied for consideration for the recruitment to the posts notified, as they were fully qualified and eligible for consideration. The petitioners in W.P.Nos.10667 and 5609 of 2020 had applied for consideration to the post of Data Entry Operators and the petitioners in W.P.Nos.10138 and 5607 of 2020 had applied for consideration to the post of Junior Assistants.

5. The method of selection was through written examination, followed by interview/certificate verification. Since the appointment in the 2nd respondent Board did not come under the purview of Tamil Nadu Public Service Commission, according to the respondents, Mother Theresa Women's University, Kodaikanal, had been appointed as the recruiting Agency for the conduct of the selection pursuant to the notification. Written Examination was conducted in various Centres. Originally, 67,087

candidates responded to the notification for the post of Junior Assistants. But only 40,619 candidates participated in the written examination held on 01.12.2019. Out of the candidates who participated in the examination, 330 candidates emerged successful and short listed by the recruiting agency based on their marks and communal rotation to fill up the 66 vacancies notified for appointment to the post of Junior Assistants. The vacancies were need to be filled up in the ratio of 1:5.

6. As far as the post of Data Entry Operators is concerned, the written examination was conducted in various Centres on 17.11.2019, in which 12,614 candidates participated, from out of 21,795 candidates originally responded to the notification. In the written examination, 555 candidates were declared to have come out successful and they were short listed by the recruiting agency based on the marks and communal rotation to fill up 111 vacancies in the Data Entry Operator in the ratio of 1:5.

7. According to the respondents, for the post of Junior Assistant, weightage of 85 marks was fixed for the written examination and 15 marks for the interview. For the post of Data Entry Operator, weightage of 85

marks was fixed for the written examination, 50 marks for the skill test and 15 marks for the interview/ certificate verification.

8. On completion of the selection process in respect of both the categories, the selection lists were handed over to the Board on 17.12.2019. Pursuant to the handing over the selection lists, a selection committee has been constituted, one officer each from the Commissionerate of Labour, the Directorate of Industrial Safety and Directorate of Employment and Training. Thereafter, call letters were issued to the selected candidates for the interview/certificate verification scheduled on 18.01.2020 and 20.01.2020 for Data Entry Operators and Junior Assistants respectively.

9. Out of 330 candidates short listed, 313 candidates attended the interview/ certificate verification for the post of Junior Assistant held on 20.01.2020. In the meantime, as far as the post of Data Entry Operator is concerned, further skill test was held on 30.11.2019 wherein, out of 473 participants, 222 candidates were short listed by the Recruiting Agency, based on their marks and communal rotation and from out of the short listed, 218 candidates attended the interview/ certificate verification on

18.01.2020. The entire selection process was concluded by the selection committee. After completion of the entire selection process, the Committee submitted a list of candidates on the basis of the aggregate marks in the written examination, skill test and interview in a sealed cover to the Board.

10. These writ petitioners after having come out successful in the written examination, they were called for the interview and certification verification held on the above said dates. When these writ petitioners were awaiting for the declaration of the selection result and their possible appointments pursuant to their performance in the selection process, there was no action forthcoming from the respondents. While so, to their shock and dismay, the 2nd respondent had issued a press release No.85 dated 29.01.2020 stating that the entire selection which was held pursuant to the notification dated 17.10.2018 stood cancelled for administrative reasons. Except baldly stating administrative reason, no specific reasons were spelt out in the press release as to the basis for the cancellation of the entire selection. In the said circumstances, these petitioners are before this Court

challenging the press release issued by the 2nd respondent dated 29.01.2020.

11. Mr.T.V.Ramanujam, learned senior counsel appearing for the petitioner in W.P.No.10138/2020 would submit that once the respondents have fully gone through the selection process and having concluded the same without any complaints, the cancellation of the selection abruptly without disclosing any reason is *per se* arbitrary, unreasonable and cannot be countenanced either in law or on facts. According to the learned senior counsel, the writ petitioners are well qualified and eligible and they had performed well in all the stages of selection and to deprive them of the final appointment for no valid reason, is unacceptable and opposed to the 'Doctrine of Legitimate Expectation'.

12. Mr.N.Manokaran, learned counsel appearing for the writ petitioner in W.P.No.10667/2020 has also supported the arguments of the learned Senior Counsel. He would submit that once the process of selection has been completed and without valid and acceptable reasons, the impugned cancellation suffers from patent illegality.

13. Notice was ordered and Mr.V.Jayaprakash Narayanan, learned

Government Pleader appeared for the respondents. A detailed counter affidavit has been filed. Along with the counter affidavit, typed set of papers has also been filed. In the typed set of paper, the resolution dated 10.03.2020 of the 2nd respondent Board was enclosed. In the resolution, it is stated as to what prompted the 2nd respondent to abruptly cancel the selection. According to the resolution, in the notification issued on 17.10.2018 in paragraph No.8, it is mentioned that the method of selection was on the basis of written examination followed by certificate verification/ counselling. However, during the process of the selection, inadvertently, 'interview' method was introduced and 15 marks was also assigned for the performance of the candidates in the interview. In view of the sudden inclusion of the interview as part of the selection process , outside the frame work of the notification, the authority felt that the entire selection was liable to be cancelled. Therefore, the press release was issued on 29.01.2020.

14. Learned Government Pleader Mr.V.Jayaprakash Narayanan, in support of the resolution and the press release submitted that the interview was not part of the selection process as notified and therefore, the authority

had no choice except to cancel the selection. At this, learned senior counsel Mr.T.V.Ramanujam, and the learned counsel Mr.N.Manokaran would submit that as far as the written examination was concerned, it was part of the selection process and therefore, no irregularity or illegality was alleged in the conduct of the written examination. Likewise, the certificate verification was also part of the selection process. The only point of objection is that instead of counselling which was mentioned in paragraph No.8 of the notification, the recruitment authority has included 'interview' and allocated 15 marks for it.

15. Learned counsels would therefore submit that in the absence of any allegation of any irregularity in the conduct of the written examination and also in the conduct of the interview and certificate verification, there was no compulsion or legal necessity to cancel the selection itself. All the candidates have been put through the selection process and inclusion of interview method, though not specifically mentioned in the notification is always part of any selection. Therefore, by declaring the results, no prejudice would be caused to any one including the respondents. According

to the learned counsels, more than 60,000 candidates had responded to the notification and the successful candidates including the petitioners herein had taken considerable efforts to perform well in the examination and after reaching the final stage of the selection namely, interview/ certificate verification, their right to be considered for appointment and posting, cannot be abruptly and unjustly cannot stand negated.

16. During the course of the arguments, when this Court confronted the learned Government Pleader as to whether there was any irregularity noticed in the selection process in the guise of conduct of the interview and allocating 15 marks for the same, the learned Government Pleader fairly submitted that there was no irregularity or any allegations against the entire selection but the cancellation was entirely due to a small inadvertent error adopted in the selection process as referred to above.

17. After due instructions from the respondents, the learned Government Pleader fairly submitted that allocation of 15 marks for the interview is permissible even in terms of the law laid down by the Hon'ble Supreme Court and therefore, it cannot be gainsaid that there was any scope

of nepotism or favouritism which could play any role or tilt the balance in selecting candidates unfairly in the final result to be declared. In fact, the learned Government Pleader himself has fairly referred to two Supreme Court decisions, viz., (1) **1991(1) SCC 662(Mohinder Sain Gard v. State of Punjab)**. Learned counsel has drawn the attention of this Court to paragraph No.33 of the above decision, which is extracted hereunder.

33. In our view Ashok Kumar Yadav case clinches the issues raised before us and being a decision given by four Judges is also binding on us. That was a case relating to public employment and a direction was given to all the Public Service Commissions to follow the marks allocated for viva voce test as done by the P\UPSC which was 12.2 per cent of the total marks. Ashok Kumar Yadav case was decided in 1985 and we fail to understand as to why the State of Punjab did not follow the same for making selections in 1989 for the post of excise and Taxation Inspectors. It is no doubt correct that the selection of Taxation and Excise inspectors is done by a subordinate selection body and not by Public Service Commission yet no valid reason has been given before us by learned counsel for the respondents as to why the principle

enunciated in Ashok Kumar Yadav case should not be applied in these cases as well. Even if Ashok Kumar Yadav case may not in terms apply in the cases before us to the extent of laying down 12.2 per cent of the total marks for viva voce test which was made applicable for selections to be made by UPSC, we deem it proper to lay down after taking in view the dictum of all the authority decided so far that the percentage of viva voce test in the present cases at 25 per cent of the total marks is arbitrary and excessive. There could no be gainsaying that viva voce test cannot be totally dispensed with, but taking note of the situation and conditions prevailing in our counter, it would not be reasonable to have percentage of viva voce marks more than 15 per cent of the total marks in the selection of the candidates fresh from college/school for public employment by direct recruitment where the rules provided for a composite process of selection namely written examination and interview.

(2) 1991(3) SCC 368 (**Munindra Kumar v. Rajiv Govil**). Learned Government Pleader has drawn the attention of this Court to paragraph 9 of the above decision, which is extracted hereunder.

9. The question now which calls for our consideration

is as to what percentage of marks may be considered as reasonable for group discussion. The purpose of group discussion is to assess the qualities mental alertness, manner of asserting oneself, showing regard for opinion of others, ability to discuss a subject without losing temper and his initiative, that and self confidence when confronted with a problem facing a large number of people. However, the group discussion as one of the methods for assessing the suitability of a candidate for the post of Assitant Engineer has not been kept by any other State Electricity Boards in India except Andhra Pradesh and Uttar Pradesh. In group discussion the examiner observes the candidates from behind and makes his own assessment and as such the allotment of marks for group discussion cannot be equated with the marks allotted for interview. In the interview every candidate gets a chance and the members of the interviewing board can in a better manner judge the intelligence, ability and personality of the candidate to determine his suitability for the job. The marks for group discussion cannot be kept at an equal pedestal with the interview. Thus in our view as already held in Mohinder Sain Garg's case (supra) 15 per cent marks in all are to be kept for interview, and if the rule making authorities want to keep

group discussion also as one of the modes of selection them marks for interview and group discussion should not exceed 10 per cent 5 per cent respectively of the total marks.

18. He concluded by saying that if any direction is issued, the results can be declared and further process of appointment could be taken forward.

19. On behalf of the petitioners, the decision of the Hon'ble Supreme Court reported in **2010(7) SCC 678 (East Coast Railway v. Mahadev Appa Rao)** was cited. Learned counsel Mr.N.Manokaran, would draw reference to paragraph Nos.13 to 17 and to 23 to 30 of the said decision, which are extracted hereunder.

13. A Constitution Bench of this Court in Shankarsan Dash v. Union of India had an occasion to examine whether a candidate seeking appointment to a civil post can be regarded to have acquired an indefeasible right to appointment again such post merely because his name appeared in the merit list of candidates for such post.

Answering the question in the negative this Court observed:

"7. It is not correct to say that if a number of vacancies are notified for appointment and adequate number of candidates are found fit, the successful candidates acquire an indefeasible

right to be appointed which cannot be legitimately denied. Ordinarily the notification merely amounts to an invitation to qualified candidates to apply for recruitment and on their selection they do not acquire any right to the post. Unless the relevant recruitment rules so indicate, the State is under no legal duty to fill up all or any of the vacancies. However, it does not mean that the State has the licence of acting in an arbitrary manner. The decision not to fill up the vacancies has to be taken bona fide for appropriate reasons. And if the vacancies or any of them are filled up, the State is bound to respect the comparative merit of the candidates, as reflected at the recruitment test, and no discrimination can be permitted. This correct position has been consistently followed by this Court, and we do not find any discordant note in the decisions in the State of Haryana v. Subhash Chander Marwaha; Shangla (Miss) v. State of Haryana or Jitender Kumar v. State of Punjab."

14. It is evident from the above that while no candidate acquires an indefeasible right to a post merely because he has appeared in the examination or even found a place in the select list, yet the State does not enjoy an unqualified prerogative to refuse an appointment in an arbitrary fashion or to disregard the merit of the candidates as reflected by the merit list prepared at the end of the selection process. The validity of the State's decision not to make an appointment is thus a matter which is not beyond judicial review before a

competent Writ court. If any such decision is indeed found to be arbitrary, appropriate directions can be issued in the matter.

15. To the same effect is the decision of this Court in Union Territory of Chandigarh v. Dilbagh Singh and Ors., where again this Court reiterated that while a candidate who finds a place in the select list may have no vested right to be appointed to any post, in the absence of any specific rules entitling him to the same, he may still be aggrieved of his non-appointment if the authority concerned acts arbitrarily or in a malafide manner. That was also a case where selection process had been cancelled by the Chandigarh Administration upon receipt of complaints about the unfair and injudicious manner in which the select list of candidates for appointment as conductors in CTU was prepared by the Selection Board. An inquiry got conducted into the said complaint proved the allegations made in the complaint to be true. It was in that backdrop that action taken by the Chandigarh Administration was held to be neither discriminatory nor unjustified as the same was duly supported by valid reasons for cancelling what was described by this Court to be as a "dubious selection".

16. Applying these principles to the case at hand there is no gainsaying that while the candidates who appeared in the

typewriting test had no indefeasible or absolute right to seek an appointment, yet the same did not give a licence to the competent authority to cancel the examination and the result thereof in an arbitrary manner. The least which the candidates who were otherwise eligible for appointment and who had appeared in the examination that constituted a step in aid of a possible appointment in their favour, were entitled to is to ensure that the selection process was not allowed to be scuttled for malafide reasons or in an arbitrary manner.

17. It is trite that Article 14 of the Constitution strikes at arbitrariness which is an anti thesis of the guarantee contained in Articles 14 and 16 of the Constitution. Whether or not the cancellation of the typing test was arbitrary is a question which the Court shall have to examine once a challenge is mounted to any such action, no matter the candidates do not have an indefeasible right to claim an appointment against the advertised posts.

....

....

23. Arbitrariness in the making of an order by an authority can manifest itself in different forms. Non-application of mind by the authority making the order is only one of them. Every order passed by a public authority must

disclose due and proper application of mind by the person making the order. This may be evident from the order itself or the record contemporaneously maintained. Application of mind is best demonstrated by disclosure of mind by the authority making the order. And disclosure is best done by recording the reasons that led the authority to pass the order in question. Absence of reasons either in the order passed by the authority or in the record contemporaneously maintained is clearly suggestive of the order being arbitrary hence legally unsustainable.

24. In the instant case the order passed by the competent authority does not state any reasons whatsoever for the cancellation of the typing test. It is nobody's case that any such reasons were set out even in any contemporaneous record or file. In the absence of reasons in support of the order it is difficult to assume that the authority had properly applied its mind before passing the order cancelling the test.

25. Mr. Malhotra's contention that the order was passed entirely on the basis of the complaint received from the unsuccessful candidates is also of no assistance. The fact that some representations were received against the test or the procedure followed for the same could not by itself justify

cancellation of the test unless the authority concerned applied its mind to the allegations levelled by the persons making the representation and came to the conclusion that the grievance made in the complaint was not without merit.

26. If a test is cancelled just because some complaints against the same have been made howsoever frivolous, it may lead to a situation where no selection process can be finalized as those who fail to qualify can always make a grievance against the test or its fairness. What is important is that once a complaint or representation is received the competent authority applies its mind to the same and records reasons why in its opinion it is necessary to cancel the examination in the interest of purity of the selection process or with a view to preventing injustice or prejudice to those who have appeared in the same. That is precisely what had happened in Dilbagh Singh's case. The examination was cancelled upon an inquiry into the allegations of unjust, arbitrary and dubious selection list prepared by the Selection Board in which the allegations were found to be correct.

27. Even in Tarun K. Singh's case (supra) relied upon by Mr. Malhotra an inquiry into the complaints received against the selection process was conducted no matter after the

cancellation of the examination. This Court in that view held that since the selection process was vitiated by procedural and other infirmities cancellation thereof was perfectly justified.

28. That is not, however, the position in the instant case. The order of cancellation passed by the competent authority was not preceded even by a prima facie satisfaction about the correctness of the allegations made by the unsuccessful candidates leave alone an inquiry into the same. The minimum that was expected of the authority was a due and proper application of mind to the allegations made before it and formulation and recording of reasons in support of the view that the competent authority was taking.

29. There may be cases where an enquiry may be called for into the allegations, but there may also be cases, where even on admitted facts or facts verified from record or an enquiry howsoever summary the same maybe, it is possible for the competent authority to take a decision, that there are good reasons for making the order which the authority eventually makes. But we find it difficult to sustain an order that is neither based on an enquiry nor even a prima facie view taken upon a due and proper application of mind to the relevant facts. Judged by that standard the order of cancellation passed

by the competent authority falls short of the legal requirements and was rightly quashed by the High Court.

30. We may hasten to add that while application of mind to the material available to the competent authority is an essential pre-requisite for the making of a valid order, that requirement should not be confused with the sufficiency of such material to support any such order. Whether or not the material placed before the competent authority was in the instant case sufficient to justify the decision taken by it, is not in issue before us. That aspect may have assumed importance only if the competent authority was shown to have applied its mind to whatever material was available to it before cancelling the examination. Since application of mind as a thresh-hold requirement for a valid order is conspicuous by its absence the question whether the decision was reasonable having regard to the material before the authority is rendered academic. Sufficiency or otherwise of the material and so also its admissibility to support a decision the validity whereof is being judicially reviewed may even otherwise depend upon the

WEB COPY

facts and circumstances of each case. No hard and fast rule can be formulated in that regard nor do we propose to do so in this case.

20. He would submit that unless there are compelling reasons for cancellation of the selection on the basis of any corrupt practice or irregularity, the selection cannot be cancelled unreasonably, unsupported by any material justifying the impugned action.

21. This Court considered the submission of the learned Senior Counsel Mr.T.V.Ramnujam appearing for the petitioner in W.P.No.10138/2020, Mr.N.Manoharan, learned counsel appearing for the petitioner in W.P.No.10667/2020 and Mr.T.Muruganantham, learned counsel appearing for the petitioners in W.P.Nos.5607 & 5609/2020 and Mr.V.Jayaprakash Narayanan, learned Government Pleader appearing for the respondents.

22. At the outset, this Court places its appreciation on the fairness exhibited by the learned Government Pleader and also the fair disclosure of the crucial facts from the commencement of the selection process till the end in the counter affidavit filed on behalf of the respondents. When actual

selection was held, the selection committee in its wisdom felt that interview of candidates was imperative and included the interview method and allocated 15 marks for the same. The inclusion of the method of interview and allocating 15 marks can never be construed as something alien to such selection procedure. It is very common that in every job selection, recruitment is not complete without interview. Therefore, the interview which was made part of the selection procedure can never held to be unjustified in the facts and the circumstances of the case.

23. Further, as regards the allocation of 15 marks is concerned, as fairly and rightly relied on by the learned Government Pleader, the Hon'ble Supreme Court in the above referred decisions has held that allocation of 15 marks for interview is reasonable and hence, permissible. In any case, in the absence of any malpractice or irregularity or ill-motive for that matter, the inclusion of the interview as one of the selection methods, the undoing of the entire selection was not called for at all. Such disproportionate response and a drastic action affecting the employment prospects of the candidates who had undergone the entire selection process is opposed to fair

play and good conscience. In fact, the decision relied on by the learned counsel Mr.N.Manokaran, in which, the Hon'ble Supreme Court has held in clear terms that any decision taken by the authority must be supported by valid material, more particularly, when the entire selection process was set at nought by a simple press release, such impugned action ought to have been preceded and premised on consideration of any adverse material against the conduct of the selection. In this case, there appears to be no such consideration and in fact, there was no scope of finding anything amiss in the selection process. In such event, as rightly submitted by the learned Senior counsel, the impugned action is in violation of the the principles of "Legitimate Expectation".

24. Admittedly, there were no allegations, no complaints and no irregularity in the selection. The selection was cancelled only on the basis of the perception of the authority concerned that there was a minor infraction in the inclusion of the selection procedure namely 'interview' which was not contemplated in the notification. In fact from the records, it could be seen that cancellation was announced first on 29.01.2020 and the resolution

supporting the cancellation was passed subsequently on 10.03.2020.

25. In the opinion of this Court, understanding of the authority on this aspect may not be valid for the simple reason that counselling normally would also connote and include interview in any selection process of this nature. It is trite in the realm of selection process, interview is always an integrate and form part of the same. In fact, it is always understood that, in common parlance, employment counselling is preceded by interview.

26. Moreover, when there are no complaints of any favouritism or nepotism in introducing additional method of selection namely interview and allocation of 15 marks for the same, the word 'counselling' as mentioned in paragraph 8 of the notification deemed to have included interview as well. Every minor infraction, even assuming it is an infraction, if it is eventually, found to be immaterial, the entire selection cannot be held to be vitiated.

27. When the entire selection process has been completed without any glitches, it was not open to the authority to cancel the selection simply on the basis of his misreading of the situation and to invalidate the

selection. Further the expressions ' interview' and 'counselling' are interchangeably used in any recruitment process. Therefore, it is erroneous and narrow semantic understanding on the part of the authority to give a plain etymological colour to the expression counselling and exclude the concept of interview as not being part of the counselling. In any event, even in the counter affidavit nothing has been stated against the valid and legitimate conduct and completion of the selection process. Therefore, in consideration of the undisputed facts and the fair admission of the learned Government Pleader, this Court has to come to an inexorable conclusion that the cancellation of the selection is irrational, unjust, unreasonable arbitrary and cannot be countenanced in law and on facts.

28. In the circumstances, the impugned press release Notification No.85 dated 29.01.2020 is hereby set aside. The respondents are directed to publish the final results, submitted by the Committee in a sealed cover, as admitted in the counter affidavit, within a period of four weeks from the date of receipt of a copy of this order.

29. In the event, these writ petitioners are successful for eventual

appointment to the post of Junior Assistants/ Data Entry Operators in their respective category and status, the respondents are directed to issue appointment orders to them expeditiously without undue delay.

30. The Writ Petitions are allowed as above. No costs.
Consequently, connected miscellaneous petition is closed.

24.11.2020

vsi
Speaking/Non-speaking
Index : Yes/No

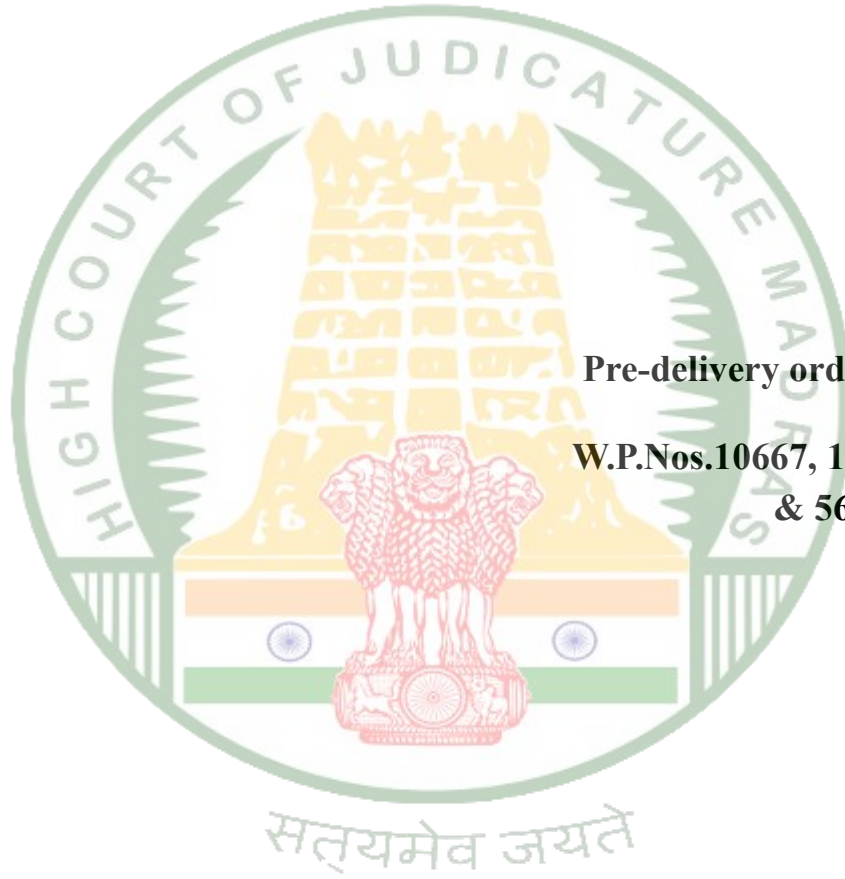
Note: Issue order copy by today itself.

To
The Commissioner of Labour,
DMS Complex,
Teynampet,
Chennai - 600 006.



WEB COPY

V.PARTHIBAN.J.,
vsi



Pre-delivery order made in

**W.P.Nos.10667, 10138, 5607
& 5609 of 2020**

WEB COPY

24.11.2020