

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 18.02.2020

Pronouncing orders on : 21.02.2020

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.Nos.25877 & 28182 of 2019
& W.P.No.3695 of 2020
and
W.M.P.Nos.25332, 27845 & 27847 of 2019
& W.M.P.No.4376 of 2020

1.S.Jeevana

2.K.Anandan

3.L.Kalavathi

4.S.Raja Shakul Hameed

5.R.Mani Bharathi

6.P.Ayyasamy

7.A.Mathumathi

8.K.T.Dharani

9.K.Renugadevi

...Petitioners
in W.P.Nos.25877 & 28182 of 2019

P.Vinoth

Petitioner
in W.P.No.3695 of 2020

vs.

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Personnel and Administrative Reforms (S) Department,
Fort St. George, Chennai - 600 009.

2. The Tamil Nadu Public Service Commission,
rep by the Secretary,
TNPSC Road, V.O.C Nagar,
Park Town, Chennai - 600 003.

...Respondents
in W.P.No.25877 of 2019

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Personnel and Administrative Reforms (S) Department,
Fort St. George, Chennai - 600 009.

2. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Forest Department,
Fort St. George, Chennai - 600 009.

3. The Tamil Nadu Public Service Commission,
rep by the Secretary,
TNPSC Road, V.O.C Nagar,
Park Town, Chennai - 600 003.

...Respondents
in W.P.No.28182 of 2019
& W.P.No.3695 of 2020

PRAYER in W.P.No.25877 of 2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the Provisional Selection List dated 20.08.2019 published by the 2nd respondent comprising of 148 candidates selected for the post of Forest Apprentice pursuant to Notification No.12 of 2018 dated 04.07.2018 and quash the same insofar as the said provisional selection list comprise of 29 non Tamil medium (Non-PSTM) candidates in lieu of 29 PSTM (Persons studied in Tamil Medium) candidates in violation of Act 40 of 2010 and consequently direct the 2nd respondent to select the petitioners for the post of Forest Apprentice against the 20% reservation of vacancies on preferential allotment to Persons Studies in Tamil Medium (PSTM) as per Clause 12B of the Notification No.12/2018, dated 04.07.2018 as per the Distribution of vacancies following the rule of reservation applicable to the recruitment of Forest Apprentice as set out in Clause 2 of the Notification No.12 of 2018, dated 04.07.2018.

PRAYER in W.P.No.28182 of 2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the Notification No.12 of 2018 dated 04.07.2018 issued by the 3rd respondent and quash the same insofar as column 3 in Clause B of the Notification No.12 of 2018 dealing with Educational Qualification in Notification No.12 of 2018 dated 04.07.2018 enables the 3rd respondent contrary to the policy of the State Government in Act 40 of 2010 to give preference to candidates who have studied Bachelor's degree in Forestry or its equivalent degree of any institution or University recognized by UGC in non Tamil Medium over the candidates who have studied Bachelors degree in any one of the other subjects specified in column 2 in Clause B of the Notification No.12 of 2018 dealing with Educational Qualification in Notification No.12 of 2018 dated 04.07.2018 in Tamil Medium for direct recruitment even for the 20% of the vacancies in the post of Forest Apprentice when the said 20% of the vacancies should be allotted to candidates who have studies the prescribed subject in Tamil Medium on preferential basis as per the policy of the State Government in Act 40 of 2010.

PRAYER in W.P.No.3695 of 2020: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the Notification No.12 of 2018 dated 04.07.2018 issued by the 3rd respondent and quash the same insofar as column 3 in Clause B of the Notification No.12 of 2018 dealing with Educational Qualification in Notification No.12 of 2018 dated 04.07.2018 enables the 3rd respondent contrary to the policy of the State Government in Act 40 of 2010 to give preference to candidates who have studied Bachelor's degree in Forestry or its equivalent degree of any institution or University recognized by UGC (University Grants Commission) in non Tamil Medium over the candidates who have studied Bachelors degree in any one of the other subjects specified in column 2 in Clause B of the Notification No.12 of 2018 dealing with Educational Qualification in Notification No.12 of 2018 dated 04.07.2018 in Tamil Medium for direct recruitment even for the 20% of the vacancies in the post of Forest Apprentice when the said 20% of the vacancies should be allotted to candidates who have studies the prescribed subject in Tamil Medium on preferential basis as per the policy of the State Government in Act 40 of 2010 and consequently direct the 3rd respondent to allot 20% of the vacancies in the post of Forest Apprentice to candidates who have studied the Educational Qualification in Tamil Medium.

For Petitioners : Mrs.Nalini Chidambaram
in all W.Ps Senior Counsel for
M/s.C.Uma

For Respondents : Mr.P.S.Sivashanmuga Sundaram
Special Government Pleader
for R1 in W.P.No.25877 of 2019
& W.P.No.28182 of 2019

Mr.V.Prabhu
Government Advocate
for R1 in W.P.No.3695 of 2020

Mr.M.Loganathan
Standing Counsel
for R2 in W.P.No.25877 of 2019
for R3 in W.P.No.28182 of 2019
& W.P.No.3695 of 2020

Mr.Elumalai
Government Advocate
for R2 in W.P.No.28182 of 2019
& W.P.No.3695 of 2020

J U D G M E N T

The issue involved in all the above writ petitions is common and therefore, this Court proceeds to take up the same together and deal with the same and pass a common judgment.

2.The petitioners are challenging the selection process adopted by TNPSC in the selection to the post of Forest Apprentice on the ground that 20% reservation for Persons Studied in Tamil Medium (PSTM) was not granted and consequently the Provisional Selection List issued by the TNPSC is questioned.

3.The 2nd respondent in W.P.No.25877 of 2019 issued a Notification dated 04.07.2018 inviting applications to fill up 148 regular vacancies and 10 SC-Shortfall vacancies to the post of Forest Apprentice. The Notification prescribes the following educational qualification:

Name of the Post (1)	Educational Qualification (2)	Preferential Qualification (3)
Forest Apprentice	(a) Must possess a Bachelor's degree in Forestry or its equivalent degree of any institution or University recognized by UGC (or) (b) Must possess a Bachelor's degree or its equivalent degree in any one of the following subjects from any institution or University recognized by UGC 1. Agriculture 2. Animal Husbandry and Veterinary Science 3. Botany 4. Chemistry 5. Computer Applications / Computer Science 6. Engineering (All Engineering subjects including Agricultural Engineering) 7. Environmental Science 8. Geology 9. Horticulture 10. Marine Biology 11. Mathematics 12. Physics 13. Statistics 14. Wildlife Biology 15. Zoology	Only if suitable candidates with the educational qualification referred to in item (a) in column (2) are not available for selection, candidates with qualification referred to in item (b) will be considered for selection process in the respective communal categories.

4. The selection procedure as provided in Clause 10 of the Notification is extracted hereunder:

As per the Special Rules governing the appointment to the post of Forest Apprentice, the applicants with Degree qualification in Forestry subject will be given absolute preference. Only if sufficient applicants with Forestry subject are not available for selection against any vacancy/vacancies, the applicants with other Degree qualification can be considered for selection process towards those remaining vacancies.

5.The general information contained in Clause 12 of the Notification with regard to the 20% reservation for PSTM category is extracted hereunder:

B. In G.O.(Ms)No.145, Personnel and Administrative Reforms (S) Department, dated 30.09.2010, and G.O. (Ms)No.40, Personnel and Administrative Reforms (S) Department, dated 30.04.2014 the Government have issued orders to fill up 20% of all vacancies in direct recruitment on preferential basis to persons who studies the prescribed qualification in Tamil Medium. The 20 % reservation of vacancies on preferential allotment to Persons Studied in Tamil Medium (PSTM) will apply for this recruitment. (Applicants claiming this reservation should have studies the prescribed qualification for the post in Tamil medium and should have the certificate for the same. Having written the examinations in Tamil language alone will not qualify for claiming this reservation). If the applicants with PSTM Certificate are not available for selection for appointment against reserved turn, such turn shall be filled up eligible Non-PSTM applicants but belonging to the respective communal category. The PSTM certificate shall be produced/uploaded by the applicant in prescribed format / proforma available in the Commission's website at 'www.tnpsc.gov.in' which shall be contained from the Head of Institution.

6.Admittedly, all the petitioners fall under category (b) with regard to the educational qualification and none of them possess a bachelor's degree in Forestry or its equivalent degree.

7.Mrs.Nalini Chidambaram, learned Senior Counsel appearing on behalf of the petitioners submitted that the respondents have filled up the entire vacancies only with the candidates who possessed qualification of a bachelor's degree in Forestry. The learned Senior Counsel submitted that, this bachelor's degree does not have a Tamil Medium. Whereas, persons who are falling under category (b) have completed the Under Graduation in Tamil Medium and all the petitioners fall under that category.

8. The learned Senior Counsel brought to the notice of this Court, the provisions of the Persons Studied in Tamil Medium Act, 2010 (Act 40 of 2010) and submitted that this Act was brought into force in order to give a special preference for those who have studied in Tamil medium. The learned Senior Counsel specifically drew the attention of this Court to the object behind this enactment and the same is extracted here under:

AND WHEREAS those who have studied in Tamil Medium have very little chances of getting selected in the employment of Central Government, other State Governments or in Private Sectors, and therefore preference need be given to them in the State Government Services;

.

AND WHEREAS the classification between persons who obtained the educational qualification prescribed for direct recruitment through Tamil medium of instruction and persons studied in other medium has a reasonable relation to the object sought to be achieved;

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AND WHEREAS unless employment opportunities are provided for person studies in Tamil medium, there is no scope for the populace of the State to pursue school and college career through Tamil medium;

AND WHEREAS in order to facilitate a conducive environment for the populate to prefer Tamil medium of instruction at all levels of education, appointment to any services under the State on preferential basis of persons studied in Tamil medium is a rational classification;

9. The learned Senior Counsel also brought to the notice of this Court, Section 3 of the Act which mandates 20% of vacancies in appointment to the services under the State to be filled up on a preferential basis with the candidates who have studied in Tamil Medium.

10. The learned Senior Counsel by bringing to the notice of this Court all the above provisions, submitted that, admittedly the bachelor's degree in Forestry does not have a Tamil medium and therefore, candidates belonging to this qualification could not have been accommodated in the 20% reservation provided for PSTM and this 20% should have been filled up from among the candidates falling under category (b) who have completed their bachelor's degree in the stipulated subjects in Tamil medium. The learned Senior Counsel submitted that the 2nd respondent in W.P.No.25877 of 2019 went wrong in

filling up the entire vacancy with the candidates falling under category (a) and this goes against the mandate provided in the above enactment.

11.The learned Senior Counsel also questioned the stipulation made in the Notification to the effect that the candidates falling under category (b) will be considered only if suitable candidates are not available under category (a). The learned Senior Counsel submitted that, even though, the petitioners have participated in the selection, such a stipulation provided in the Notification can be questioned, since, it runs contrary to the statute. The learned Senior Counsel, therefore, submitted that, the provisional final list published by the 2nd respondent in W.P.No.25877 of 2019 requires interference and the 2nd respondent in W.P.No.25877 of 2019 must be directed to fill up 20% of the vacancies from among the candidates falling under category (b) and who have completed the bachelor's degree in Tamil Medium.

12.The respondents have filed separate counter affidavits. The 2nd respondent in W.P.No.25877 of 2019 in its counter affidavit has taken the following stand.

6.It is submitted that with reference to G.O. (Ms)No.145, Personnel and Administrative Reforms (S) Department, dated 30.09.2010, the 20% reservation of vacancies for preferential allotment to PSTM is applicable for this recruitment. But no candidate is available in the ranking list who studied the prescribed qualification viz., B.Sc., Forestry under Tamil Medium as B.Sc.,Forestry is being taught in English Medium only.

7.It is further submitted that the selection has been made in for the above said post as per Para.10 of the selection procedure mentioned in the Commission's Notification and the clause 6(A) read with section 6 of PSTM Act 40 of 2010.

8.It is respectfully submitted that, based on the above, the candidates with degree qualification in Forestry subject have to be exhausted first and then the candidates with Non-Forestry qualification in respective community can be considered for selection to the said post. It is contingent upon the non-availability of candidates with degree qualification in Forest Subject.

As stated already since there were sufficient number of candidates with Forestry qualification, no chance arose for the Writ Petitioner to be considered.

For the foregoing reasons and the legal submissions to be made at the time of arguments, the

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relief prayed for by the petitioner is not at all maintainable and therefore it is prayed that the Hon'ble Court may be pleased to dismiss the Writ Petition as devoid of merits and thus render justice.

13.The 1st respondent has filed a separate counter affidavit and it is stated that the 1st respondent is not a necessary party in the present writ petitions.

14.This Court has carefully considered the submissions made on either side and also the materials available on record.

15.The sum and substance of the submissions made by the learned Senior Counsel appearing on behalf of the petitioners is that no sufficient candidates were available from among those who fell within category (a) to fill up 20% reservation under the PSTM category and therefore, the candidates falling under category (b) who have completed the bachelor's degree in Tamil medium must be fitted in those vacancies. This submission was made based on the mandate prescribed by the PSTM Act which directs preferential appointment of 20% in all vacancies while considering the appointment in the services under the State, which has to be set apart on a preferential basis to the persons studied in Tamil medium.

16.In the present case, the 2nd respondent in W.P.No.25877 of 2019 had called for applications to fill up the post of Forest Apprentice. The educational qualification that was prescribed under the Notification falls under two heads. The first category is those who possess bachelor's degree in Forestry and in the absence of the suitable candidates under this category, the 2nd category of candidates falling under Clause (b) will be considered. It must be borne in mind that the post in question, requires a specialized knowledge in dealing with the functions assigned to the said post. That is the reason why an absolute preference is given to the candidates who possess a bachelor's degree in Forestry. Candidates falling under this category do not have any other option except to participate in the selection to the post of this nature. In other words, there is a direct nexus between the qualification and the post that is sought to be filled up by the 2nd respondent in W.P.No.25877 of 2019. It is an admitted case that there is no Tamil medium in bachelor's degree in Forestry. A careful reading of Clause 6(B) and Clause 10 of the Notification reveals the fact that the candidates falling under category (b) were only kept as a stand by if in case suitable candidates are not available in category (a). In other words, the candidates falling under (b) will not come within the zone of consideration, if the 2nd respondent in W.P.No.25877 of 2019 is able to fill up all the vacancies with the candidates falling under category (a).

17.The reservation under PSTM category will apply in this case only when candidates are considered under category (b) and that situation has not arisen in the present case.

18.This Court is not in agreement with the submission of the learned Senior Counsel to the effect that 20% PSTM category must be read into the term "Suitable Candidates" and thereby the non-availability of candidates under this category in Clause 2(a), must be filled with the candidates falling under Clause (b) who possess the other qualifications and who have completed the same in Tamil medium. If such an interpretation is given to the relevant Clauses in the Notification, it will go against the plain language that is used in the Notification. This Court cannot read something into the Notification which will cause violence to the plain language used in the Notification. A Notification cannot be interpreted by a Court like a statute and the Court is bound to understand the same from the plain meaning that is conveyed in the Notification.

19.It must also be borne in mind that the candidates falling under Clause (b) will have other avenues to participate in various other selections in view of their qualifications. However, the candidates falling under Clause (a), in view of their specialized qualification, do not have any other avenue except to participate in the selection to the post of Forest Apprentice. That is the reason why the Notification categorically states that absolute preference will be given to those candidates. Therefore, both from the angle of the candidates and the post concerned, this Court is fully satisfied that the stipulation made in the Notification is reasonable and does not call for any interference.

19.In view of the above discussion, this Court does not find any ground to interfere with the selection process adopted by the 2nd respondent in W.P.No.25877 of 2019 and consequently all the writ petitions are dismissed. Connected miscellaneous petitions are closed. No Costs.

Sd/-

Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

ssr

To

1. The Secretary to Government,
Personnel and Administrative Reforms (S) Department,
Fort St. George, Chennai - 600 009.
2. The Secretary to Government,
Forest Department,
Fort St. George, Chennai - 600 009.
3. The Secretary,
The Tamil Nadu Public Service Commission,
TNPSC Road, V.O.C Nagar,
Park Town, Chennai - 600 003.
4. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.C.Uma, Advocate SR.No.14930

+3cc to Government Pleader(Forest) SR.No.15700,15701, 15699

+2cc to Special Government Pleader(Forest) SR.No.15857, 15858

W.P.Nos.25877 & 28182 of 2019

& W.P.No.3695 of 2020

and

W.M.P.Nos.25332, 27845 & 27847 of 2019

& W.M.P.No.4376 of 2020

VSN II (CO)

GMV (25/02/2020)

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