



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

|               |            |
|---------------|------------|
| Reserved on   | 01.04.2021 |
| Pronounced on | 07.07.2021 |

**CORAM:**

**THE HONOURABLE MR. JUSTICE M.S.RAMESH**

**W.P. (MD) No.3566 of 2020**

**and**

**W.M.P. (MD) Nos.3010 & 3011 of 2020**

G.Karthika

...Petitioner

Vs.

Tamil Nadu Public Service Commission,  
Rep by its Secretary,  
Park Town, VOC Nagar,  
Chennai-600 003.

...Respondent

**PRAYER:** Writ Petition filed under Article 226 of Constitution of India praying to issued a Writ of declaration to declare the provisional selection of candidates to the Original Certificate Verification and Counselling to the post of Junior Assistant/Field Surveyor/Village Administrative Officer included in Combined Civil Services Examination-IV (Group-IV) 2018-19 and 2019-2020 as illegal in so far as not including the petitioner and consequently for a direction, directing the respondent to select and appoint the petitioner in the post of Junior Assistant/Field Surveyor/Village Administrator under the category of SC(G) or SC(W) in view of the marks secured by the petitioner in the written examination conducted on 01.09.2019 in the event of the petitioner coming within the zone of consideration within the time period stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy  
For Respondent : Mr.Isaac Mohanlal, Sr. Counsel  
for Mr.D.Sivaraman  
Standing counsel for TNPSC

**O R D E R**

The petitioner herein had submitted On-line application to the Tamil Nadu Public Service Commission (TNPSC), pursuant to the recruitment Notification No.19 of 2019 dated 14.06.2019 for the posts in Group-IV Services. The petitioner had taken part in the written examination. After publication of the results and based on the claim made in her On-line application, she was called upon to upload the documents between 05.12.2019 and 18.12.2019 to substantiate her claim made in the On-line application.



2. It is stated that the petitioner's name was not included in the selection list since she had not uploaded her 'Persons Studied in Tamil Medium' (PSTM) Certificate and the Post Graduation Certificate uploaded by her evidences that the result in the Post Graduation was after the notification. Accordingly, the petitioner's name was not included in the selection list.

3. Heard the learned counsel for the parties.

4. It is not in dispute that even if the petitioner had not been brought under the PSTM category, she would have qualified herself in the open category. The petitioner also claims that she had not sought for reservation under the PSTM category. In identical cases, this Court had dealt with the decision of the TNPSC in treating similarly placed candidates under PSTM category, only on the presumption that they had claimed reservation by referring to their medium of instructions as Tamil and this Court had allowed the Writ Petitions filed in **W.P.No.5812 of 2020 [M.Nisha V. The Secretary, TNPSC, Chennai and Another] & batch dated 07.07.2021**. The relevant portion of the order reads as follows:

" 8. It is the case of all the petitioners herein that they had not claimed any special reservation under PSTM category and even without applying the reservation under PSTM category, they have qualified themselves in the open category for selection to the posts. This aspect has not been disputed by the learned Senior counsel appearing for the TNPSC.

9. The respondents are unable to substantiate as to on what basis, they had come to the conclusion that all these petitioners had claimed reservation under PSTM category. Merely because the On-line application provides for a column, calling upon the applicants to mention their medium of instructions, it cannot be construed as if these applicants had claimed reservation under the PSTM category. It is reiterated that there is no column in the application, calling upon the candidates to exercise their option to claim reservation under PSTM category.

10. In all recruitment processes held by the Government or other Governmental bodies and where the rule of reservation is made applicable, irrespective of whether it is horizontal or vertical reservation, the recruiting authority cannot subject the candidates to the rule of reservation, just because they qualify themselves for such reservations. The method of recruitment adopted by the recruitment authorities ratifies this proposition, since the first stage of evaluating the On-line applications is



applicants universally and irrespective of whether they had qualified themselves for any horizontal or vertical reservation, their candidature was short listed in the open category on merits. For instance, a candidate may belong to Most Backward Caste or Scheduled Caste or Scheduled Tribe community and when he/she qualifies themselves in the open category, their candidature cannot be considered under the communal reservation. It is needless to point out the right for employment is a fundamental right as guaranteed under the Constitution of India and depriving such an opportunity would also be violative of Article 14 of the Constitution of India. This proposition has been reiterated by the Hon'ble Supreme Court in the case of **Ritesh R. Sah Vs. Dr.Y.L.Yamul & Others** reported in **1996 (3) SCC 253**.

11. In the instant case, when the petitioners have qualified themselves in the open category itself, there was no justification on the part of the TNPSC to treat them as candidates claiming reservation under PSTM category and insisting for production of a PSTM Certificate. Hence, the proper course that ought to have been adopted by TNPSC is to straight away to include the names of the candidates who had qualified themselves in the open merit category and ought not to have resorted to demand supporting testimonials for any kind of reservation which the candidates may or may not claim. In these circumstances, the reason assigned the reason assigned by the TNPSC for rejection of the petitioners' candidature is unjust and illegal."

5. Since the petitioner herein, is similarly placed as that of the candidates in the aforesaid Writ Petitions, the reason for rejection of her candidature on the ground that she has not uploaded the PSTM Certificate, cannot be sustained.

6. Insofar as the second reason of rejection that the petitioner had qualified for Post Graduation after the date of notification for selection is concerned, it is seen that the petitioner herein has been provisionally selected to the Post of Junior Assistant in the Police Department, pursuant to the interim orders of this Court. The petitioner herein had also applied to the posts of Junior Assistant only. The qualification prescribed for the posts of Junior Assistant as per the notification, is pass in SSLC. Hence, her Post Graduation qualification has no relevance for consideration for appointment to the posts of Junior Assistant. The decision of the respondent to reject the petitioner's candidature on this second ground, by finding fault with the Post Graduation Certificate is therefore totally illogical and also illegal.



7. Thus, both the reasons assigned by the respondent for omitting to include the petitioner's name in the selection list for the posts of Junior Assistant, cannot be sustained.

8. In the result, the Writ Petition stands allowed. Consequently, the action of the TNPSC in rejecting the petitioner's candidature on the ground that she had not uploaded the PSTM Certificate relied upon by them and also that the Post Graduation Certificate was after the date of notification, in her On-line application, is declared as illegal. As a result, there shall be a direction to the TNPSC to include the name of the petitioner herein in the selection list for counseling to the posts included in Group-IV Services, as per Notification No.19 of 2019 dated 14.06.2019. The TNPSC shall endeavor to include the name of the petitioner herein, atleast, within a period of two weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed. There shall be no orders as to costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

DP

To

The Secretary,  
Tamil Nadu Public Service Commission,  
Park Town, VOC Nagar,  
Chennai-600 003.

+1 CC to M/s.T.LAJAPATHY ROY, Advocate ( SR-21649[F] dated 08/07/2021 )

**W.P. (MD) No.3566 of 2020**

**and**

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**07.07.2021**

**CM(CO)**

LR (19.07.2021) 4P 3C