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W.A.(MD)Nos.947 to 951 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A. (MD) Nos.947 to 951 of 2021

and

CMP (MD) .Nos.4296,4297,4298,4295 and 4299 of 2021

W.A. (MD) No.947 of 2021

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

... Appellant/Respondent-1

Vs

1. M.Ahamed Basheer ... 1st respondent/Petitioner
2. The Secretary to Government,
Commercial Taxes and Registration Department,
Fort St.George, Secretariat,
Chennai - 600 009. ... 2nd respondent/2nd respondent
3. The Inspector General of Registration,
Registration Department,
100, Santhome High Road,
Chennai - 600 028. ... 3rd respondent/3rd respondent
4. The District Registrar (Administration),
Ramanathapuram - 623 501. ... 4th respondent/ 4th
respondent

W.A. (MD) No.948 of 2021

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

... Appellant/Respondent-1

Vs



1. N.Vijei Chandran ... 1st respondent/Petitioner
2. The Secretary to Government,
Commercial Taxes and Registration Department,
Fort St.George, Secretariat,
Chennai - 600 009. ... 2nd respondent/2nd respondent
3. The Inspector General of Registration,
Registration Department,
100, Santhome High Road,
Chennai - 600 028. ... 3rd respondent/3rd respondent
4. The District Registrar (Administration),
Erode District. ... 4th respondent/ 4th respondent

W.A.(MD) No.949 of 2021

The Secretary,
The Tamil Nadu Public Service Commission,
Frazer Bridge Road,
VOC Nagar, Park Town,
Chennai - 600 003. ... Appellant/Respondent-1
in all W.A.s
Vs

1. C.Kumar ... 1st respondent/Petitioner
2. The Secretary to Government,
Commercial Taxes and Registration Department,
Fort St.George, Secretariat,
Chennai - 600 009. ... 2nd respondent/2nd respondent
3. The Inspector General of Registration,
Registration Department,
100, Santhome High Road,
Chennai - 600 028. ... 3rd respondent/3rd respondent
4. The District Registrar (Administration),
Virudhunagar District. ... 4th respondent/ 4th respondent

W.A.(MD) No.950 of 2021

The Secretary,
The Tamil Nadu Public Service Commission,
Frazer Bridge Road,
VOC Nagar, Park Town,
Chennai - 600 003. ... Appellant/Respondent-1



Vs

1. G.Komakan

... 1st respondent/1st respondent

2. The Secretary to Government,
Commercial Taxes and Registration Department,
Fort St.George, Secretariat,
Chennai - 600 009.

... 2nd respondent/2nd respondent

3. The Inspector General of Registration,
Registration Department,
100, Santhome High Road,
Chennai - 600 028.

... 3rd respondent/3rd respondent

4. The District Registrar (Administration),
Ariyalur District.

... 4th respondent/ 4th respondent

W.A.(MD) No.951 of 2021

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

... Appellant/Respondent-1

Vs

1. Lakshmanan

... 1st respondent/Petitioner

2. The Secretary to Government,
Commercial Taxes and Registration Department,
Fort St.George, Secretariat,
Chennai - 600 009.

... 2nd respondent/2nd respondent

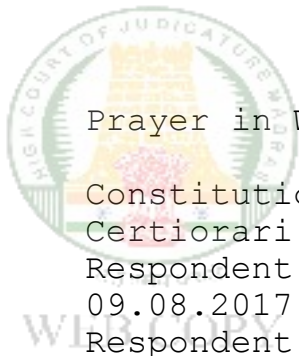
3. The Inspector General of Registration,
Registration Department,
100, Santhome High Road,
Chennai - 600 028.

... 3rd respondent/3rd respondent

4. The District Registrar (Administration),
Madurai (South).

... 4th respondent/ 4th respondent

COMMON PRAYER: Appeal under Clause 15 of the Letters Patent, against the order dated 26.04.2019, passed in W.P(MD). Nos.16658,16659,16660,16661 and 16662 of 2017.



Prayer in WP(MD). 16658 of 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari praying to call for the records on the file of the 1st Respondent vide No.Kurippanai No.6751/Gr IV-SCE/PSD-C2/2009 dated 09.08.2017 signed on 16.08.2017 and consequential order of 3rd Respondent in No.25408/Ke2/2009 dated 29.08.2017 and quash the same as illegal.

Prayer in WP(MD). 16659 of 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari to call for the records on the file of the 1st respondent vide kuripanai No.6751/Gr IV-SCE/PSD-C2/2009 dated 09.08.2017 signed on 16.08.2017 and consequential order of 3rd Respondent in No.25408/K2/2009 dated 29.08.2017 and quash the same as illegal.

Prayer in WP(MD). 16660 of 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari to call for the records on the file of the 3rd respondent in No.25408/K2/2009 dated 29.08.2017 and quash the same as illegal.

Prayer in WP(MD). 16661 of 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari praying to call for the record on the file of the 3rd respondent in NO. 25408/K2/2009 dated 29.08.2017 and quash the same as illegal.

Prayer in WP(MD). 16662 of 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari praying to call for the records on the file of the 1st Respondent vide No.Kurippanai No.6751/Gr IV-SCE/PSD-C2/2009 dated 09.08.2017 signed on 16.08.2017 and consequential order of 3rd Respondent in No.25408/Ke2/2009 dated 29.08.2017 and quash the same as illegal.

For Appellants in all W.A.s	: Mr.D.Sivaraman
For Respondents in all W.A.s	: Mr.Isaac Mohanlal, Senior Counsel assisted by Mr.Ragatheesh Kumar for R1 Mr.K.Sathiya Singh Additional Government Pleader for R2 to R4



COMMON JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

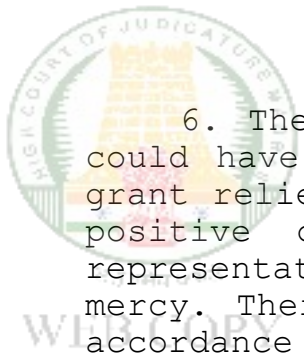
Heard Mr.D.Sivaraman, learned Counsel appearing for the petitioner-TNPSC, Mr.Isaac Mohanlal, learned Senior Counsel, assisted by Mr.Ragatheesh, learned Counsel appearing for the respondents-writ petitioners and Mr.K.Sathiya Singh, learned Additional Government Pleader appearing for the respondents 2 to 4.

2. These appeals are filed against the common order, dated 26.04.2019, passed in W.P(MD).Nos.16658,16659,16660,16661 and 16662 of 2017.

3. These cases have had a checkered history and the subject matter in issue is regularisation of the services of the respondents-writ petitioners.

4. To cut the story short, the respondents-writ petitioners were regularised in service, pursuant to a test conducted by the TNPSC, based on directions issued by the Government. The problem arose, when the respondents-writ petitioners could not be accommodated in the same Department, where they were earlier working, namely, the Registration Department. This was on account of the fact that at the relevant time, the Registration Department failed to notify the vacancies, consequently, TNPSC could not nominate the petitioners to the very same Department. The explanation offered by TNPSC obviously reasonable, nevertheless, avenues given to the writ petitioners to submit mercy petitions and these mercy petitions was to be considered by the Government, in terms of the judgment of the Hon'ble Division Bench of this Court in W.A(MD).Nos.480 to 482 of 2012, dated 03.11.2016, wherein, the Hon'ble Division Bench held that the administrative department of the Government of Tamil Nadu has to consider the proposal on merits and in accordance with law. It appears that the administrative department of the Government of Tamil Nadu passed on the matter to the TNPSC for a decision.

5. When the writ petitions were pending before the learned Single Bench, the proposal had been already forwarded to TNPSC and they filed a counter affidavit that the proposal is under active consideration. The learned Single Bench by the impugned order dated 26.04.2019, disposed of the writ petition by issuing a positive direction to the TNPSC to accommodate all the writ petitioners in the Registration Department. Aggrieved by the said positive direction, the TNPSC is on appeal before us. It is thereafter, TNPSC has rejected the mercy petitions and such orders were put to challenge, by way of filing separate writ petitions, in which, an interim direction has been granted.



6. The issue in these appeals is whether a positive direction could have been granted by the learned Writ Court to consider and grant relief on the mercy petitions. In our respectful view, such a positive direction could not have been granted, because the representations filed by the writ petitioners is only pleading mercy. Therefore, such petition has to be definitely considered in accordance with the Rules.

7. The learned Senior Counsel appearing for the respondents-writ petitioners would submit that for no fault committed by the respondents-writ petitioners, they were not accommodated in the Registration Department, whereas, their juniors were accommodated. There may be several factors owing to which TNPSC could not have allotted the candidates to the Registration Department. As a recruiting Agency, the TNPSC can allot candidates, only as against notified vacancies of the requisitioning department, which has to be approved by the Government. Therefore, all that the Writ Court could have done is to extend mercy to the candidates, taking note of the fact that they were regularised in service pursuant to a test conducted by the TNPSC, coupled with the fact that there is an observation made by the Hon'ble Division Bench in the earlier round of litigation for the Government is to direct to consider the proposal.

8. Therefore, to that extent, we are of the view that the learned Writ Court committed an error in issuing a positive direction. Therefore, that portion of the order needs to be set aside and it can be modified to the effect that the TNPSC can be directed to consider the petition, however, no positive direction or observation can be made by the learned Writ Court.

9. We have been informed by the learned Additional Government Pleader appearing for the respondents 2 to 4, that in the writ petitions filed by the respondents-writ petitioners subsequently, an interim order was granted and the learned Single Bench directed the Registration Department to comply with the interim order and the same has been complied with, by the order of the Inspector General of Registration, dated 28.04.2021, in Na.Ka.No.40631/K2/2017, all the five respondents-writ petitioners had been accommodated in the Registration Department pending disposal of the writ petitions. Therefore, it is well open to the respondents-writ petitioners to canvass all issues in the pending writ petitions.

10. For the above reasons, all the Writ Appeals are allowed to the extent that a positive direction could not be issued, but, no further orders are required, since, already the subject matter is pending before the learned Single Bench and pending writ petitions, the respondents-writ petitioners have been accommodated in the Registration Department itself.



11. Accordingly, the Writ Appeals are allowed on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (W)

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Sub Assistant Registrar(CS)

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Note : *In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.*

To

1. The Secretary to Government,
Commercial Taxes and Registration Department,
Fort St.George, Secretariat,
Chennai - 600 009.
2. The Inspector General of Registration,
Registration Department,
100, Santhome High Road,
Chennai - 600 028.
3. The District Registrar (Administration),
Ramanathapuram - 623 501.
4. The District Registrar (Administration),
Erode District.
5. The District Registrar (Administration),
Virudhunagar District.
6. The District Registrar (Administration),
Ariyalur District.
7. The District Registrar (Administration),
Madurai (South).

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-17995[F] dated 29/04/2021)
W.A.(MD) Nos.947 to 951 of 2021
28.04.2021

KK(22.06.2021) 7P 9C