



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Civil Appellate Jurisdiction

Tuesday, the Twentieth day of July Two Thousand Twenty One
PRESENT

The Hon`ble Mr.Justice N.KIRUBAKARAN
AND

The Hon`ble Mr.Justice B.PUGALENDHI

WMP(MD) . No.8373 of 2021
in
WP(MD) . No.8025 of 2020

The Secretary
Tamilnadu Public Service Commission TNPSC Road
Park Town
Chennai-003

... Petitioner/ 3rd respondent

Vs

1 G. Sakthi Rao 1st respondent / Petitioner

2 The Chief Secretary,
Government of Tamil Nadu Secretariat St.
George Fort Chennai-009

... 2nd respondent / 1st respondent

3 The Secretary
Dept. of Higher Education
Govt. of Tamil Nadu
Secretariat St.George Fort
Chennai-009

... 3rd respondent / 2nd respondent

4 The Registrar
Alagappa University Alagappa Nagar
Karaikudi-003

5 The Registrar
Annamalai University Annamalai Nagar
Chidambaram-608 002

6 The Registrar
Bharathiar University
Coimbatore 641 046.

7 The Registrar
Bharathidasan University
Tiruchirapalli 620024.

8 The Registrar
Madras University ,Chennai-005



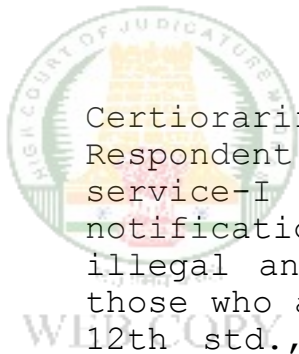
- 9 The Registrar
Madurai Kamraj University Madurai 625 021.
- 10 The Registrar
Manonmaniam Sundaranar University
Thirunelveli-12
- 11 The Registrar
Mother Teresa Womens University Kodaikanal- 102
- 12 The Registrar
Periyar University, Salem-11
- 13 The Registrar
Tamil Nadu Open University Directorate of
Technical Education Campus Guindy Chennai-25
- 14 The Chairman
University Grants Commission
Bahadur Shah Zafar Marg, Delhi-110 002
- 15 The Secretary to His Excellency
the Governor of Tamil Nadu
Raj Bhavan Chennai 600 022.
- 16 The Director of Vigilance And Anti-Corruption
No.293 Mkn Road Alandur
Chennai 600 016.
- 17 The Deputy Superintendent Of Police
Vigilance and Anti Corruption
1/165g Alagar Kovil Main Road
Madurai 625002.
- 18 The Secretary
School Education Department Namakkal
Kavignar Maligai Fort St.George Chennai - 600 009.
... 4th to 18th Respondents /4th to 18th Respondents

Prayer in WMP(MD). 8373/ 2021 :

This Petition is filed under Article 226 of the Constitution of India, to modify direction No.2 in paragraph 42 of the judgement by holding that the directions given will come into play only in the recruitments in respect of notification to be issued by the service commission in further and thus render justice.

Prayer in WP(MD). 8025/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleased to issue a writ order or any other Writ or order or Direction in the nature of a writ of



Certiorarified Mandamus calling for the entire records of the 3rd Respondent pertaining to the posts of included in Combined Civil service-I Examination (Group-1 services)-2020 by 3rd respondent notification No.01/2020 dated 20.1.2020 and quash the same as illegal and direct the 3rd respondent to allow only the candidate those who are complete their entire education through i.e 10th Std., 12th std., Degree in tamilmedium to avail PSTM quota. And also directing the 1st respondent frame proper rules for PSTM quota and Respondents University 4 to 13 stop issue PSTM certificates to Distance education course within the stipulated time period.

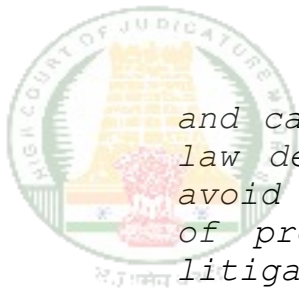
ORDER:- This Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr. K.K. Senthil, Advocate for the Petitioner, this Court made the following order:

(Order of the Court was made by N.KIRUBAKARAN,J.)

This Petition has been filed by the TNPSC to modify the direction No.2 in paragraph No.42 of the judgment dated 22.03.2021 delivered by this Court in W.P.(MD).No.8025 of 2020 by which this Court has held that the recruitment under the impugned notification is governed by this Order. It is submitted by the learned Advocate General that the selection process has already commenced and it would take time to rework the selection process in accordance with the guidelines issued by this Court vide the aforesaid order.

2.The modification sought for by the Petitioner herein is against the very object of the Act. Moreover, the contention that it would take more time to rework the present selection process as per the order of this Court cannot be sustained. The procedure followed is contrary to the Act and therefore, the petitioner has to necessarily follow the direction issued by this Court. Furthermore, the decision is always applicable retrospectively, unless it is indicated in the order stating that it will be applicable prospectively as held by the Hon'ble Supreme Court in the case of **M.A.Murthy Vs. State of Karnataka** reported in **(2003) 7 SCC 517** and the relevant paragraph No.8 is usefully extracted as follows:

8. ... Normally, the decision of this Court enunciating a principle of law is applicable to all cases irrespective of its stage of pendency because it is assumed that what is enunciated by the Supreme Court is, in fact, the law from inception. The doctrine of prospective overruling which is a feature of American jurisprudence is an exception to the normal principle of law, was imported and applied for the first time in *L.C. Golak Nath v. State of Punjab* [AIR 1967 SC 1643] . In *Managing Director, ECIL v. B. Karunakar* [(1993) 4 SCC 727 : 1993 SCC (L&S) 1184 : (1993) 25 ATC 704] the view was adopted. Prospective overruling is a part of the principles of constitutional canon of interpretation



and can be resorted to by this Court while superseding the law declared by it earlier. It is a device innovated to avoid reopening of settled issues, to prevent multiplicity of proceedings, and to avoid uncertainty and avoidable litigation. In other words, actions taken contrary to the law declared prior to the date of declaration are validated in larger public interest. The law as declared applies to future cases. (See *Ashok Kumar Gupta v. State of U.P.* [(1997) 5 SCC 201 : 1997 SCC (L&S) 1299] and *Baburam v. C.C. Jacob* [(1999) 3 SCC 362 : 1999 SCC (L&S) 682 : 1999 SCC (Cri) 433] .) It is for this Court to indicate as to whether the decision in question will operate prospectively. In other words, there shall be no prospective overruling, unless it is so indicated in the particular decision. It is not open to be held that the decision in a particular case will be prospective in its application by application of the doctrine of prospective overruling. The doctrine of binding precedent helps in promoting certainty and consistency in judicial decisions and enables an organic development of the law besides providing assurance to the individual as to the consequences of transactions forming part of the daily affairs."

3. In view of the abovestated position, this modification Petition is dismissed holding that the present recruitment is also governed by the order.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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TO

1. The Chief Secretary to Government of Tamil Nadu,
Secretariat St. George Fort Chennai-009
2. The Secretary,
Dept. of Higher Education Govt. of Tamil
Nadu Secretariat St. George Fort Chennai-009
3. The Secretary, Tamilnadu Public Service Commission,
TNPSC Road, Park Town, Chennai-600 003.



4. The Registrar
Alagappa University Alagappa Nagar
Karaikudi-003
5. The Registrar
Annamalai University Annamalai Nagar
Chidambaram-608 002
6. The Registrar
Bharathiar University Coimbatore 641 046.
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Bahadur Shah Zafar Marg Delhi-110 002
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16. The Director of Vigilance and Anti-Corruption,
No.293 Mkn Road Alandur
Chennai 600 016.
17. The Deputy Superintendent Of Police,
Vigilance and Anti Corruption
Aiyer Nagar Kovil Main Road Madurai 625 002.



18. The Secretary
School Education Department Namakkal
Kavignar Maligai Fort St.George Chennai - 600 009.

19. The Special Govt. Pleader,
Madurai Bench of Madras High Court, Madurai

+4 CC to M/s.ISSAC CHAMBERS, Advocate (SR-23480[F] dated 22/07/2021
)

ORDER DATED : 20/07/2021

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ORDER

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WMP(MD) . No.8373 of 2021

in

WP(MD) . No.8025 of 2020

Giving direction and etc.
as stated within.

RD(20.09.2021) 6P 24C