



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)Nos.248 of 2019, 25517, 25526 and 25528 of 2018
and W.M.P. (MD)Nos.199 to 201 of 2019,
23113 to 23115, 23124 to 23126
and 23128 to 23130 of 2018

- A.Priyakumar ... Petitioner in W.P.(MD)No.248/2019
- A.Arasu Kumar ... Petitioner in W.P.(MD)No.25517/2018
- C.Sivaranjani ... Petitioner in W.P.(MD)No.25526/2018
- Subadevi ... Petitioner in W.P.(MD)No.25528/2018
- vs.
- 1.The Secretary,
Tamil Nadu Public Service Commission,
Chennai.
- 2.The Controller of Examination,
Tamil Nadu Public Service Commission,
Chennai. ... Respondents in W.P.(MD)No.248/2019
- 1.The Chairman,
Tamil Nadu Public Service Commission,
TNPSC Road, Chennai - 600 003.
- 2.The Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road, Chennai - 600 003.
- 3.The Controller of Examination,
Tamil Nadu Public Service Commission,
TNPSC Road, Chennai - 600 003
... Respondents in W.P.(MD)No.25517/2018
- 1.The Tamil Nadu Public Service Commission,
Rep. By its Secretary/Chairman,
TNPSC Building, Frazer bridge road,
VOC Nagar, Park Town, Chennai - 600 003.
- 2.The Controller of Examination,
Rep. By its Chairman,
TNPSC Building, Frazer bridge road,
VOC Nagar, Park Town,
Chennai - 600 003. ... Respondents in W.P.(MD)No.25526/2018



1.The Chairman,
Tamil Nadu Public Service Commission,
Frazer Bridge road,
Park Town,
Chennai - 600 003.

2.The Controller of Examination,
Tamil Nadu Public Service Commission,
Frazer Bridge road,
Park Town,
Chennai - 600 003. ... Respondents in W.P.(MD)No.25528/2018

PRAYER IN W.P. (MD)NO.248/2019: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the second respondent in Notification dated 17.12.2018 for the post of Agricultural Officer (Extension) in the Tamil Nadu Agricultural Extension Service, 2015-2016, 2016-2017, 2017-2018 and 2018-2019 with regard to rejection of petitioner's candidature in Registration 190001277 for the post of Agricultural Officer and quash the same as illegal and arbitrary and in consequence thereof direct the respondents to declare the candidature of the petitioner as eligible for the above said post.

PRAYER IN W.P. (MD)NO.25517/2018: 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 impugned order of third respondent dated 17.12.2018, published in the web-site, quash the same insofar as the petitioner's Reg.No.100002067 is concerned and consequently direct the respondents herein to permit the petitioner to attend the Oral Test scheduled from 02.01.2019 to 08.01.2019 (except 05.01.2019 and 06.01.2019) in the office of the Tamil Nadu Public Service Commission, TNPSC Road, Chennai - 3.

PRAYER IN W.P. (MD)NO.25526/2018: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 2nd respondent in office order dated 17.12.2018 and quash the same insofar as the petitioner is concerned in Registration No.260001214.

PRAYER IN W.P. (MD)NO.25528/2018: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned notification published by the 2nd respondent through online on 17.12.2018 and consequently permit the petitioner to participate in the oral test to be held on 02.01.2019 to 08.01.2019 (except



05.01.2019 and 06.01.2019) for the post of Agricultural Officer (Extension) in the Tamil Nadu Agricultural Extension Service, 2015-2016, 2016-2017, 2017-2018 and 2018-2019.

For Petitioner in : Mr.P.Ganapathisubramanian
W.P. (MD)No.248/2019

For Petitioner in : Mr.K.Appadurai
W.P. (MD)No.25517/2018

For Petitioner in : Mr.C.Deepak
W.P. (MD)No.25526/2018

For Petitioner in : Mr.S.Muniyandi
W.P. (MD)No.25528/2018

For Respondents : Mr.K.K.Senthil
(In all W.Ps.)

COMMON ORDER

These Writ Petitions have been filed challenging the impugned Notification dated 17.12.2018, issued by the Controller of Examination, Tamil Nadu Public Service Commission.

2. All the writ petitioners, in response to the Notification dated 03.05.2018, issued by the respondents, applied through online to the post of Agricultural Officer (Extension). The petitioners were issued with hall tickets and participated in the written examination held on 14.07.2018. All the petitioners were successful in the written examination and their names were included in the provisional list of selected candidates. But, their names were not found in the impugned final list published on 17.12.2018. But, in the Annexure, it has been stated that the candidature of the petitioners were rejected for the following reasons:

(i) for not uploading the document within the stipulated time;
(ii) for not attending the certificate verification; and
(iii) for not satisfying the eligibility conditions as per the norms stipulated in the Notification.
Challenging the said final list, the petitioners have come out with these present Writ Petitions.

3. The learned counsel appearing for the petitioners in all the Writ Petitions separately contended that the petitioners have uploaded their certificates online through E-Sevai Centre and paid necessary charges for the same. The impugned order of rejecting the petitioners candidature is passed without application of mind. The respondents in the impugned Notification have not stated the reason for rejecting the candidature of the petitioners. The petitioners



respondents. The petitioners have necessary qualification i.e., B.Sc., (Agriculture) and other qualifications prescribed by the respondents. The respondents, without properly appreciating all the documents uploaded by the petitioners, erroneously rejected the candidature of the petitioners. The learned counsel appearing for the petitioners further submitted that on verification from the office of respondents, the petitioners were informed that their candidature were rejected, as they have mentioned that they have studied B.Sc., (Agriculture) in Tamil medium. Due to the inadvertent mistake committed by the Typist in E-Sevai Centre, the petitioners' candidatures should not be rejected.

4. The learned counsel appearing for the petitioners further submitted that there is no intention in mentioning that the petitioners have studied B.Sc., (Agriculture) in Tamil Medium, to claim reservation under quota for having studied B.Sc., (Agriculture) in Tamil medium. In fact, the petitioners have not claimed any appointment for having studied B.Sc., (Agriculture) in Tamil medium. Further, the respondents have not passed any order rejecting the candidature of the petitioners on that ground. The learned counsel appearing for the petitioners further submitted that for the typographical error committed in the E-Sevai Centre, the petitioners' career should not be spoiled. Learned counsel for the petitioners has relied on the following two orders of this Court:

(I) ***M.Vidhya Vs. The Secreetary, Tamil Nadu Public Service Commission*** reported in ***2018 SCC OnLine Mad 549***

(ii) ***K.M.Subhiksha Vs. The Director, National Eligibility cum Entrance Test Unit, Delhi and others*** reported in ***2017 SCC Online Mad 3704***.

5. The respondents have filed counter affidavit. Mr.K.K.Senthil, learned counsel appearing for the respondents submitted that the petitioners applied for the post of Agricultural Officer (Extension) and in para 2(10) of the instructions to the applicants, it has been specifically mentioned that the candidate must carefully furnish all the particulars and only certain particulars can be corrected, before the last date of submitting applications. All the petitioners have mentioned in their online applications that they have studied B.Sc., (Agriculture) in Tamil Medium. The Registrar of Agriculture University, Coimbatore and Annamalai University have stated that the B.Sc. Agriculture UG degree course offered in their University only in English Medium. The petitioners have given declaration that they have given correct particulars and if any of the particulars given by them is not correct, their candidature can be rejected.

6. The learned counsel appearing for the respondents further submitted that the Division Bench of this Court in ***Dr.M.Vennila and others Vs. Tamil Nadu Public Service Commission*** reported in ***(2006) 3***



MLJ 376, has held that Notification, instructions etc., to the candidates have the force of law and the terms and conditions of instructions etc., to the candidates and information brochure have to be strictly followed and this Court under Article 226 of the Constitution of India, cannot make any modification or relaxation of such conditions. The Hon'ble Apex Court in the judgment in **Union of India and others Vs. S.Vinodh Kumar and others** reported in **(2007) 8 SCC 100** has held that a person, who participated in the selection process, knowing fully well the procedure laid down in the Notification is not entitled to question the validity of the same, after being not selected, as he has vested right for being selected. The petitioners' applications were rejected as per the instructions given in paragraph 12(L) of the Notification No.9/2018, dated 03.05.2018, as they have wrongly claimed PSTM reservation in their on-line application for the post of Agricultural Officer (Extension) and prayed for dismissal of the Writ Petitions.

7. Heard the learned counsel appearing for the petitioners, the learned counsel appearing for the respondents and perused the materials available on record carefully.

8. From the materials available on record, it is seen that the petitioners applied through online for the post of Agricultural Officer (Extension). They were admitted for written examination and they were successful in the written examination. Their names were included in the provisional list dated 17.10.2018. All such candidates were instructed to upload their certificates in support of their claim in online application between 03.05.2018 to 02.06.2018. According to the petitioners, they uploaded all the certificates as instructed by the respondents within the time limit granted by the respondents. But, their names were not included in the final list selected for oral test and verification of original certificates. The final list annexure was enclosed. In the annexure, the registration number of persons, whose candidatures were rejected was mentioned. The registration number of the petitioners find place in the said annexure. At the top of the annexure, it has been mentioned that the candidature of the petitioners and others were rejected for the following reasons:

- (i) for not uploading the documents within the stipulated time;
- (ii) for not attending the certificate verification; and
- (iii) for not satisfying the eligibility conditions as per the norms stipulated in the Notification.

According to the petitioners, they have uploaded their documents within the time limit specified by the respondents. They were not called for certificate verification. The educational qualification for the post of Agricultural Officer (Extension) is B.Sc., Agriculture. The respondent has mentioned the numbers of persons, whose candidatures were rejected, without specifically mentioning the reason for such rejection. In the counter affidavit filed by



the respondents, they have come out with a different case that the petitioners have given wrong information in their online application. According to the respondents, the petitioners studied B.Sc., Agriculture only in English medium and deliberately, they have mentioned in the application that they studied the said course in Tamil medium. It is the case of the respondents that the petitioners have not produced a requisite PSTM certificate in the prescribed format. It is the case of the petitioners that they studied upto 12th standard in Tamil Medium and they have produced PSTM certificate in the format for 12th standard. Further, according to the petitioners, while applying through online, the Typist in E-Sevai Centre, by mistake, typed that the petitioners studied B.Sc., Agriculture in Tamil Medium. Whether unintentional or inadvertent mistake is fatal for the candidature of a person was considered by this Court in the two orders of this Court in (i) **M.Vidhya Vs. The Secreetary, Tamil Nadu Public Service Commision** reported in **2018 SCC OnLine Mad 549** and (ii) **K.M.Subhiksha Vs. The Director, National Eligibility cum Entrance Test Unit, Delhi and others** reported in **2017 SCC OnLine Mad 3704**.

9. In the order in **M.Vidhya Vs. The Secreetary, Tamil Nadu Public Service Commision** reported in **2018 SCC OnLine Mad 549**, this Court has held as follows:

"4. In a similar circumstances, this Court, while dealing with the issue of mistake committed in the date of birth while applying through online, directed the TNPSC to permit the petitioner therein to participate in the interview (Reference can be had from D.Shruthi v. the Secretary, TNPSC, Chennai, W.P.No.3294 of 2018, dated 14.02.2018). For better appreciation, relevant portion of the said order is extracted below:-

"7. In the present case also, when the petitioner after coming to know that her date of birth as '15.6.1993', which has been inadvertently mentioned by her as '15.6.1994' in her online application, gave a requisition letter to the respondent on 18.8.2016 with a request to consider her request for rectification of the said mistake committed by her, which clearly shows that only after realising the mistake, the petitioner, even before writing the main examination, has given her requisition letter to the respondent.

8. Therefore, the earlier order passed by this Court in W.P.No.2031 of 2018 dated 6.2.2018 will squarely apply to the case of the petitioner in the present writ petition also. In view of the same, the writ petition stands allowed. The

respondent is directed to permit the petitioner



participate in the oral interview, if she is otherwise eligible. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed."

5. In the case on hand, as the petitioner was successful in the preliminary examination conducted by the TNPSC, she was directed to participate in the oral test and thereafter, when she was about to attend the interview, she was prevented on the ground that she has committed a mistake while entering the date of birth in the online application. Immediately thereafter, she has also mentioned before the authorities that the said mistake committed by her is neither willful nor wanton as she has inadvertently typed the same in the online application. Thus, from the aforesaid facts of the case, it is clear that she has not committed the said mistake intentionally to suppress her original date of birth nor misrepresented before the TNPSC.

6. In such view of the petitioner, the respondent TNPSC is directed to permit the petitioner to take part in the interview, if she is otherwise eligible. With this direction, the writ petition is disposed of. No Costs. WMP.No.4593 of 2018 is closed."

10. In the order in **K.M.Subhiksha Vs. The Director, National Eligibility cum Entrance Test Unit, Delhi and others** reported in **2017 SCC OnLine Mad 3704**, this Court has held as follows:

"6. It is not in dispute that the petitioner while making the on-line application for the NEET examination has referred the category as UR (Unreserved), instead of OBC (Other Backward Class). It is stated that the petitioner has inadvertently made such mistake, when the fact remains that she belongs to Backward Class. In support of her contention, the petitioner relied on the Community Certificate issued by the competent Revenue Official dated 17.03.2003. Perusal of the said certificate made available in the typed set of papers would indicate that the petitioner belongs to Backward Class community. The Transfer Certificate issued by the School to the petitioner also indicate that she belongs to Backward Class community.

7. Therefore, it is evident that the petitioner has inadvertently referred the category wrongly in the on-line application, while submitting for NEET examination. When the petitioner belongs to Backward Class community and the overwhelming documents are there in support of such claim, I do not think that she can be denied an opportunity to get admission under the



reserved category for Backward Class community, only because she has referred to the category as Unreserved in the on-line application. Since the merit list has not been issued so far and the counseling has also not taken place, I am of the view that no prejudice would be caused, if the respondents are directed to consider the claim of the petitioner and treat her as Backward Class Community, while considering her application for admission to M.B.B.S. Course based on the marks obtained in the NEET examination.

8. Accordingly, this writ petition is disposed of, by directing the petitioner to approach the second respondent and place the relevant materials viz., Community Certificate and Transfer Certificate, indicating her Community status, immediately on receipt of the order of this Court. On receipt of such request of the petitioner with necessary documents as stated supra, the second respondent will consider the claim of the petitioner and treat her as Backward Class Community, while considering for admission to the M.B.B.S course. No costs. Consequently, connected miscellaneous petition is closed."

11. In the order in ***K.M.Subhiksha Vs. The Director, National Eligibility cum Entrance Test Unit, Delhi and others*** reported in ***2017 SCC OnLine Mad 3704***, the petitioner therein wrongly mentioned her caste as Unreserved (UR) instead of mentioning as Other Backward Class (OBC). On finding out the said mistake, the petitioner therein made an application for correction of her caste as OBC. The same was not accepted by the authorities. On the Writ Petition filed by the writ petitioner therein, this Court held that the mistake committed unintentionally should not affect the candidate and directed the authority to consider her claim under OBC category.

12. In the order in ***M.Vidhya Vs. The Secretary, Tamil Nadu Public Service Commission*** reported in ***2018 SCC OnLine Mad 549***, the date of birth of the petitioner therein was wrongly mentioned as 17.11.1986 instead of 17.06.1986. She submitted application on 07.02.2018, requesting the respondents therein to rectify the mistake. She was successful in the written examination and she was called for to attend oral test. On the date of oral test, she was not permitted to attend the oral test on the ground that she has given wrong date of birth. This Court, considering the order dated 14.02.2018 in W.P.No.3294 of 2018 [D.Shruthi Vs. The Secretary, TNPSC, Chennai] and extracting paragraphs 7 and 8 of the said order, held that she has not committed the said mistake intentionally to suppress and the mistake committed was neither willful nor wanton, as she has inadvertently typed the same in the online application.



This Court also held that she has not misrepresented before TNPSC. On such findings, this Court directed the respondents therein to permit the petitioner therein to take part in the interview, if she is otherwise eligible.

WEB COPY

13. The ratio in the above two orders is squarely applicable to the facts of the present cases. The rejection of candidature of the petitioners by the impugned annexure to the final list dated 17.12.2018 is liable to set aside on two grounds. Firstly, the respondents have given vague reason for rejecting the candidature of the petitioners. They have not given any specific reason as stated in the counter affidavit. Secondly, the reason given in the counter affidavit for rejecting candidature of the petitioners is that they have given a wrong particulars that they studied B.Sc., Agriculture in Tamil medium and as per the declaration given by them, their candidatures were rightly rejected. This is the new case put forth by the respondents in the counter affidavit filed in the writ petitions and the same cannot be accepted. In any event, the petitioners have stated that the mistake had been committed by the Typist in the E-Sevai Centre. The said mistake is inadvertent and unintentional and the petitioners have not misrepresented before the respondents to claim appointment under PSTM quota. In the two orders referred to above, this Court has held that when mistake is inadvertent or unintentional, the candidate must be permitted to attend the interview.

14. For the above reasons, the rejection of petitioners' candidature contained in annexure to the final list dated 17.12.2018, is set aside. This Court by the interim orders dated 04.01.2019 and 27.12.2018, directed the respondents to permit the petitioners to attend the interview. Learned counsel for the petitioners submitted that as per the interim orders of this Court, they have attended the interview. Respondents are directed to consider the candidature of the petitioners, if they are otherwise eligible. The respondents are directed to complete the said exercise within a period of four weeks from the date of receipt of a copy of this order.

15. Accordingly, these Writ Petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsm

<https://hcservices.ecourts.gov.in/hcservices/>



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/Chairman,
Tamil Nadu Public Service Commission,
TNPSC Building, Frazer bridge road,
VOC Nagar, Park Town,
Chennai - 600 003.

2.The Controller of Examination,
TNPSC Building,
Frazer bridge road,
VOC Nagar, Park Town,
Chennai - 600 003.

+4 CC to M/s.K.K.SENTHIL, Advocate (SR-22200[F] dated 13/07/2021)

+1 CC to M/s.K.APPADURAI, Advocate (SR-22375[F] dated 13/07/2021)

W.P(MD)Nos.248 of 2019, 25517, 25526
and 25528 of 2018
and W.M.P. (MD)Nos.199 to 201 of 2019,
23113 to 23115, 23124 to 23126 and 23128
to 23130 of 2018
12.07.2021

NS (CO)
TR(02.08.2021) 10P 8C