



W.P(MD)Nos.9262 of 2022 etc., batch

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2022

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)Nos.9262, 9402, 9408 & 9566 of 2022

and

W.M.P.(MD)Nos.6638, 6639, 6641, 6643, 6744, 6740, 6741, 6874 & 6875 of 2022

In W.P.(MD)No.9262 of 2022

K.Saravana Selvi

... 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 the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the Impugned Order dated 28.04.2022 on the file of the Respondent and quash the same and further directing the Respondent to permit the petitioner bearing application number 2110000599 to participate in the further selection process for the post of Assistant Public Prosecutor Grade II in Prosecution department conducted in pursuant to the notification of the Respondent in Notification No.10/2021 dated 25.08.2021.

For Petitioner : Mr.K.Jeyamohan

For Respondent : Mr.J.Ravindran



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Additional Advocate General  
assisted by Mr.V.Pannerselvam  
Standing Counsel

In W.P.(MD)No.9408 of 2022  
Thenmozhi

... Petitioner

**Vs.**

Tamil Nadu Public Service Commission,  
Rep. by its Secretary,  
Madras United Club,  
Park Town,  
Chennai-600 003.

... Respondent

**Prayer :** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent in uploading the Hall Tickets pertaining to the Main Examination for the post of Assistant Public Prosecutor - Grade II in the Prosecution Department dated 28.04.2022 and quash the same pertaining to the petitioner herein as devoid of merits and consequently direct the Respondent to allow the petitioner to write the Main Examination for the Post of Assistant Public Prosecutor - Grade II in the prosecution department to be held on 07.05.2022 and 08.05.2022.

For Petitioner : Mr.Ananth C.Rajesh

For Respondent : Mr.J.Ravindran  
Additional Advocate General  
assisted by Mr.V.Pannerselvam  
Standing Counsel

In W.P.(MD)No.9402 of 2022  
P.Saritha

... Petitioner

**Vs.**



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

2. The Controller of Examination,  
Tamil Nadu Public Service Commission,  
TNPSC Road, V.O.C.Nagar,  
Park Town,  
Chennai-600 003.

... Respondents

**Prayer :** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the impugned order uploaded by the second respondent dated Nil and quash the same as illegal.

For Petitioner : Mr.B.Anandan

For Respondents : Mr.J.Ravindran  
Additional Advocate General  
assisted by Mr.V.Pannerselvam  
Standing Counsel

In W.P.(MD)No.9566 of 2022  
Kalaiyarasi

... Petitioner

**Vs.**

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



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2. The Controller of Examination,  
Tamil Nadu Public Service Commission,  
TNPSC Road, V.O.C.Nagar,  
Park Town,  
Chennai-600 003.

... Respondents

**Prayer :** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the impugned order uploaded by the second respondent dated Nil and quash the same as illegal.

For Petitioner : Mr.R.Karunanidhi

For Respondents : Mr.J.Ravindran  
Additional Advocate General  
assisted by Mr.V.Pannerselvam  
Standing Counsel

### **COMMON ORDER**

Heard the learned counsel appearing for the petitioners and the learned Additional Advocate General assisted by the learned Standing Counsel for TNPSC.

2.TNPSC issued notification dated 25.08.2021 calling for applications from eligible candidates for direct recruitment to the post of Assistant Public Prosecutor Grade – II in Prosecution Department. The petitioners applied in response thereto. They also sought preferential consideration under PSTM category. However, they had not properly uploaded PSTM certificates.



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Therefore, their applications came to be rejected. The petitioners wrote the preliminary examination. However, they were not allowed to write the main examination. That led to filing of these writ petitions.

3. Vide interim orders, they were allowed to write the main examination. However, the results of the main examination have not been published so far. In the mean while, TNPSC has announced holding of oral test on 01.12.2022 and 02.12.2022.

4. The learned counsel appearing for the writ petitioners reiterated all the contentions set out in the affidavit filed in support of these writ petitions and called upon this Court to grant relief as prayed for.

5. The respondents filed counter affidavits and contended that the impugned orders do not warrant interference.

6. My attention is drawn to Clause 15 of the notification which reads as follows:-

**“15.Upload of Documents:**

Applicants should upload the required documents for proof in respect of all the claims made in the application with reference to this notification as



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and when called for. If the required certificates are not uploaded by the applicant, within the stipulated time, his/her application will be rejected.”

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7.The learned Additional Advocate General would further contend that a similar clause was already considered by the Hon'ble First Bench in W.P.No. 14635 of 2020 (E.Thamizhanni Vs. TNPSC), dated 12.10.2020. The Hon'ble First Bench had held that if a candidate could not sustain his claim for consideration under a particular category and he had uploaded incomplete particulars, his entire application is liable to be rejected. Paragraph No.4 of the order dated 12.10.2020 in W.P.No.14365 of 2020 reads as follows:-

“4.The petitioner cannot seek refuge under the garb of any human error or inadvertent error inasmuch as the petitioner is a candidate for a prestigious examination concerning the judiciary where she should be presumed to have filled up her form consciously and to the best of her knowledge on the basis of the qualification possessed by her. To permit any alternation or change or permit the said arrangement sought by the petitioner would be to deny any such opportunity to a large number of such candidates who might have committed the same error or would like to have the same benefit which would be violating not only the terms and conditions of the advertisement and the application form, but also Articles 14 and 16 of the Constitution of India. The notification, therefore, issued for holding of the examinations containing the correct particulars in application form is a sine qua non and the same admittedly having been faulted by the petitioner, no concession at this stage may be possible. Reference may be had to Clause 16 B and the Note thereunder, as also Clause 14 of the declaration given, which are extracted hereinunder:-

#### **16.INFORMATION/INSTRUCTIONS TO THE CANDIDATES**

A) ...



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B) In G.O. (Ms.) No.145, Personnel and Administrative Reforms (S) Department, dated 30.09.2020, and G.O. (Ms.) No.40, Personnel and Administrative Reforms (S) Department, dated 30.04.2014, the Government have issued orders to fill 20% of all vacancies in direct recruitment on preferential basis to persons who studied the prescribed qualifying course in Tamil Medium. The 20% reservation of vacancies on preferential allotment to Persons who studied in Tamil Medium (PSTM) will apply to this recruitment. Applicants claiming this reservation must have studied the prescribed qualifying course for the post in Tamil Medium and should have the certificate for the same. Having written the University Examinations or Competitive Examinations in Tamil language alone will not qualify the candidate 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 by Non-PSTM Applicants but belonging to the respective communal category. The PSTM certificate shall be produced by the applicant in the prescribed format / proforma available in the Commission's website at 'www.tnpsc.gov.in' which shall be obtained from the Head of the Institution and submitted when called for by the Commission.

(For further details refer para.27 (XIX) of “Instructions to Applicants”)

**Note:-**

While filing the online application form, the applicants shall verify their eligibility to claim reservation under PSTM. At the time of certificate verification, if any wrong claim is detected, the candidature of the individual will be rejected.”

**Declaration**

“14.I have studied the prescribed qualification in Tamil Medium. I am aware that my application will summarily be rejected, if I fail to produce the evidence for having studied the prescribed qualification(s) in Tamil Medium/PSTM certificate as and when called for.”

The learned Additional Advocate General submitted that these writ petitions deserve to be dismissed.



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8. I carefully considered the rival contentions and went through the materials on record.

9. It is not in dispute that the petitioners sought to be considered under PSTM category. However, the certificates filed by them were not complete on the date when the applications were submitted. They have therefore come forward not to pursue their claim for preferential treatment.

10. The stand of the respondents is that the petitioners' case is liable to be rejected on two grounds:-

- (a) They have not uploaded the necessary certificate.
- (b) Their claim is also intrinsically wrong.

11. Even if I totally accept the contention of the respondents, that would still not debar the petitioners from being considered under general category. In fact, the Hon'ble Division Bench of the Madras High Court in W.A.No.424 of 2018, (M.Silamparasan Vs. TNPSC & another) dated 23.01.2019 had held that while construing a similar clause that it cannot be interpreted to mean that on the failure to produce certificate, the petitioner would lose the chance of being considered, in other categories to which he is otherwise entitled, for a post.



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12. In my view, the said decision is squarely applicable to the case on hand. The subsequent First Bench decision rendered in W.P.No.14635 of 2020 dated 12.10.2022 does not make any reference to the earlier order dated 23.01.2019. The learned counsel appearing for the petitioners also draw my attention to yet another Division Bench order dated 26.03.2021 in W.A.No.489 of 2021. The Hon'ble Division Bench was considering a similar clause and held that even though the candidate had made an erroneous claim, the restrictive clause will not come in the way. I therefore hold that the wrong claim made by the petitioners for being considered under PSTM category will come in the way of being considered as general category.

13. Respectfully following the decision of the Hon'ble Division Bench rendered in W.A.No.424 of 2018, the impugned order is set aside insofar as the petitioners are concerned. TNPSC will declare their results in the main examination. If the petitioners are found to have passed, they will be permitted to appear in the oral test.



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**G.R.SWAMINATHAN, J.**

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13. These Writ Petitions are allowed on these terms. No costs.

Consequently, connected miscellaneous petitions are closed.

**30.11.2022**

Index : Yes / No

Internet : Yes/ No

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**To**

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

2.The Controller of Examination,  
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