



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.10.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.22472 & 23522 of 2022 and
W.M.P.(MD)Nos.16662, 16663, 17599,
17600 & 17603 of 2022

W.P.(MD)No.22472 of 2022

M.Mohamed Ali Jinnah,
S/o.Late.M.K.M.Matharkhan,
General Secretary,
Tamilnadu Treasuries & Accounts Service
Association,
Having office at
1417, Dhandapani Building,
Periyakulam Road,
Theni – 625 531.

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by its Additional Chief Secretary,
Finance (T&A) Department,
Chennai.
2. The Secretary,
Tamilnadu Public Service Commission,
Chennai – 600 003.
3. The Commissioner of Treasuries
& Accounts Department,
Chennai – 600 035.
4. M.Karthikeyan
(R-4 is impleaded vide Order dated 11.10.2022
in W.M.P.(MD)No.17225 of 2022) ... Respondents



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Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the impugned notification No.14/2022 dated 15.07.22 on the file of the 2nd respondent and quash the same and further directing the respondents to make direct appointments to the post of Accounts Officer on creating a separate cadre.

W.P.(MD)No.23522 of 2022

1. S.Mayil Samy
2. M.Karthikeyan
3. R.Murugesan
4. R.Muthumani
5. R.Kayalvizhi
6. T.Kalaiselvi
7. V.Saravanan
8. D.Kalaiselvi
9. P.Gayathri
10. J.Gajalakshmi
11. P.Sathyabhama
12. P.Indira
13. K.Shanmugavadivu
14. P.Palani



15. R.Vijayaraghavan

16. P.P.Sujatha

17. R.Vijaya Kumar

18. S.Sathis Kumar

19.P.Sennamaraj

20.T.Ratna Devi

21.M.Arun Malar

22.P.Pradeepa

23.E.Ramyapriya

24.A.Kaleeswari

25.P.Sangeetha

26.M.Suseendran

27.M.R.Revathy

28.D.Shobana

29.A.Jeya

30.S.Lalitha

31.K.Sakthivel

32.G.Saravanan

33. T.Kavitha

34.T.Harini

... Petitioners / Petitioners

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(in both W.Ps.)

For Petitioners : Mr.G.Prabhu Rajadurai

For R-2 : Mr.Veera Kathiravan,
Additional Advocate General,
assisted by,
Mr.J.Anand Kumar,
Standing Counsel.

For R-1 & R-3 : Mr.A.K.Manikkam,
Special Government Pleader.

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COMMON ORDER

Tamil Nadu Public Service Commission has issued the impugned recruitment notification No.14 of 2022 dated 15.07.2022 calling for applications from eligible candidates for the post of Accounts Officer, Class III included in the Tamil Nadu State Treasuries and Accounts Service. The educational qualification for the said post as prescribed is that the candidate must have passed the Final Examination conducted by the Institute of Chartered Accountants / Cost Accountants. This notification is put to challenge in this writ petition on the ground that it will seriously infringe and affect the rights of the Assistant Accounts Officers.

2. The learned counsel appearing for the writ petitioners raised two contentions. His first contention is that the Tamil Nadu State Treasuries and Accounts Service contemplates that only 1 out of 10 vacancies in the said post must be referred for direct recruitment. Even according to the respondents, there are only 245 posts of Accounts Officer in the cadre of Assistant Accounts Officer. From the counter



affidavit, one can notice that there are already 14 direct recruits occupying the post of Accounts Officer. Therefore at best, the respondents can recruit only 11 more Accounts Officers by way of direct recruitment and it is not open to them to notify 24 vacancies.

3. This contention does not have any merit. The learned Additional Advocate General on instructions pointed out that even though as many as 13 persons were directly recruited as Accounts Officers as on date, there is only one such recruit occupying the said post. Even as arithmetically projected by the writ petitioners, it is open to the Tamil Nadu Public Service Commission to fill up 23 vacancies by direct recruitment. I sustain the stand taken by the respondents.

4. The second contention advanced by the learned counsel appearing for the writ petitioners is that the respondents cannot carry forward the vacancies meant for direct recruits. This contention is also liable to be rejected for two reasons. The Tamil Nadu State Treasuries and Accounts Services Special Rules consist of four classes and categories of



posts. The post of Accounts Officer falls within Class III Category 1. Rule 3 lays down the mode of appointments. A table has been set out thereunder. Column 3(c) the said table which is relevant to the case on hand is as follows:-

“ Out of every ten vacancies in Class III, both permanent and temporary the first vacancy shall be reserved for Direct Recruitment and the other vacancies by recruitment by transfer and the Direct Recruit shall rank first in the seniority among the ten.

(w.e.f. 12.07.74 G.O.Ms.No.693 Fin (T&A) Dept, dated 29.06.76)

“Of the remaining nine vacancies, the first eight vacancies shall be filled up from among the holders of the post of Assistant Accounts Officer and the remaining one vacancy shall be filled up from among the holders of the post of Assistant Treasury Officer and Senior Superintendent”.

Vide G.O.Ms.No.572 Fin (T&A) Dept, dated 20.11.98 (w.e.f. 15.06.98)



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The seniority of the persons selected to the post shall be fixed in the above cyclic order by which selection is made provided that if no qualified person is available for appointment under any of the methods referred to in Sub Rule (a)(ii) and (iii) for Class III posts, such vacancy in such method or category, as the case may be, shall not lapse but such vacancy shall be filled up in the cyclic order prescribed above, by other method or category, as the case may be.

G.O.Ms.No.80 Fin (T&A) Dept, dated 01.02.96.

The amendment hereby made shall be deemed to have been come into force on 15th June 1995 (G.O.Ms.No.239 Fin (T&A) Dept, dated 29.03.96.

Provided further that with effect from on and from the 15th June 1988, if any vacancy recovered for direct recruitment and falling under “Open Competition” and Backward Classes” quota could not be filled up in any year,



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it shall be filled up by recruitment by transfer from among the holder of the post of Assistant Treasury Officer and Senior Superintendent in the Treasuries and Accounts Subordinate Service. In that case, the first eight vacancies shall be filled up from among the holders of the posts of Assistant Accounts Officer and the ninth and tenth vacancies shall be filled up from among the holders of the Assistant Treasury Officer and Senior Superintendent.

Provided also that in a particular panel from which appointments shall be made to Class III posts if the turn of a Assistant Accounts Officer who is senior to the Assistant Treasury Officer and Senior Superintendent does not come for inclusion in the panel but the turn of the Assistant Treasury Officer and Senior Superintendent comes for consideration in that panel the name of Assistant Treasury Officer and Senior Superintendents shall not be considered



in that panel till his senior in the feeder category and acting Assistant Accounts Officer is considered and the vacancy reserved for persons holding the posts of Assistant Treasury Officer and Senior Superintendents shall lapse. (G.O.Ms.No.542 Fin (T&A) Dept, dated 22.07.91)”

5. A careful and holistic reading of the aforesaid table would indicate that out of every ten vacancies in the post of Accounts Officer, the first vacancy shall be reserved for direct recruitment. The expression used is “ shall “. Only if the vacancy reserved for direct recruitment and falling under Open Competition and Backward Classes quota could not be filled up in any year, it shall be filled up by recruitment by transfer from among the holder of the post of Assistant Treasury Officer and Senior Superintendent. The petitioners do not belong to the default category. Therefore, they do not have *locus standi* to even maintain these writ petitions. The petitioners are only Assistant Accounts Officers and not Assistant Treasury Officers or Senior Superintendents.



6. It is also stated by the learned Additional Advocate

General that when during the year 2008, an attempt was made to fill up the vacancies by way of direct recruitment, only 13 candidates got selected. Thereafter, no endeavour was made to fill up the vacancy by way of direct recruitment. Only if an attempt is made by the Government to fill up the posts by way of direct recruitment and it could not fructify, then and then alone the authority can resort to recruitment by transfer. When no endeavour was made for the last fourteen years, the petitioners are not justified in contending that the vacancies are being carried forward. No case has been made out for interference.

7. At the same time, I place on record the submission of the learned Additional Advocate General that by virtue of the impugned recruitment process, none of the incumbents will suffer. These writ petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

31.10.2022

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN,J.



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To:

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