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W.P. Nos. 7414 and 7934 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2023

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. Nos. 7414 and 7934 of 2023

and

W.M.P. Nos. 8183 and 8184 of 2023

W.P. No. 7414 of 2023:-

R.Satish

... Petitioner

-VS-

1. Tamil Nadu Public Service Commission
Represented by the Secretary
TNPSC Road, V.O.C. Nagar
Park Town, Chennai – 600 003.

2. The Controller of Examinations
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, 1950, praying to issue a Writ of Mandamus, directing the Respondents to call the Petitioner with Register Number 1001015162 for oral interview on 08.03.2023 or any other subsequent date and for counselling for the post of Assistant Engineer included in Combined Engineering Services pursuant to Notification No. 10/2022 dated 04.04.2022 by including the register number of the Petitioner in the list of Register Numbers provisionally admitted to on-screen certificate verification for the posts in the Combined Engineering Service.



W.P. Nos. 7414 and 7934 of 2023

W.P. No. 7934 of 2023:-

A.Suganya

... Petitioner

-VS-

1. Tamil Nadu Public Service Commission
Represented by the Secretary
TNPSC Road, V.O.C. Nagar
Park Town, Chennai – 600 003.

2. The Controller of Examinations
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, 1950, praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to impugned list dated 22.02.2023 published by the Second Respondent in pursuant to Notification No. 10/2022 dated 04.04.2022 for posts included in Combined Engineering Services and quash the same in respect of rejection of the Petitioner and consequently direct the Respondents to include the Petitioner Register No. 2701003219 in the list of provisionally admitted to oral test for the posts included in Combined Engineering Services.

For Petitioner

in W.P. No.7414 of 2023:

Mrs. Nalini Chidambaram
Senior Counsel
for Mrs. C.Uma

For Petitioner in

W.P. No.7934 of 2023 :

Mr. T.Muthukrishnan

For Respondents

in all W.Ps :

Mr. J.Ravindran,
Additional Advocate General
Assisted by Mr.R.Bharanidharan



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COMMON ORDER

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Heard Mrs. Nalini Chidambaram, Learned Senior Counsel for the Petitioner in W.P. No.7414 of 2023, Mr. T.Muthukrishnan, Learned Counsel for the Petitioner in W.P. No. 7934 of 2023 and Mr. J.Ravindran, Learned Additional Advocate General assisted by Mr. R.Bharanidharan, Learned Counsel appearing for the Respondents in all the Writ Petitions and perused the materials placed on record, apart from the pleadings of the parties.

2. The Tamil Nadu Public Service Commission, which is the Respondent in these Writ Petitions, had by Advertisement No. 613 issued Notification No. 10 of 2022 dated 04.04.2022 inviting applications from eligible candidates only through online mode upto 03.05.2022 for direct recruitment to the vacancies in the post of Combined Engineering Services.

3. The Petitioners in these Writ Petitions had applied online in furtherance to the said notification, but their register numbers had not been included in the list of provisionally admitted candidates to on-screen certificate verification published on 22.02.2023 in the official website of the Respondent based on the results of the written examination conducted on 02.07.2022. Complaining that



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no reasons had been assigned for not having included their names in the said list, the Petitioners have invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution for appropriate directions.

4. It has been demonstrated before this Court by the Respondent that as the Petitioners have not uploaded certain essential documents in support of the prescribed qualification for the posts in the notified vacancies, their applications have been rejected, and instead of submitting those required documents within the prescribed time, they have furnished some other documents. The specific details in that regard are shown in the self-explanatory tabular statement below:-

S. No.	Writ Petition No.	Name of the Petitioner	Date of filing of Writ Petition	Required document (which has not been uploaded)	Document wrongly uploaded (instead of required document)
1.	7414 of 2023	R.Satish	07.03.2023	UG provisional certificate	Mark-Sheet for Class XII
2.	7934 of 2023	A.Suganya	10.03.2023	UG certificate	PG certificate

The rejection of the applications of the said Petitioners is justified by the Respondent relying on the following clauses incorporated in the recruitment notification:-

"Clause 5 of the 'WARNING' mentioned in page 1 of the notification.

In respect of recruitment to this post, the applicants shall



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mandatorily upload the certificates/documents (in support of all the claims made/details furnished in the online application) at the time of submission of online application itself. It shall be ensured by the applicants that the online application shall not be submitted without uploading the required certificates.

(I) Evidence for all the claims made in the online application should be uploaded at the time of submission of online application. Any subsequent claim made after submission of online application will not be entertained. Failure to upload the documents at the time of submission of online application will entail rejection of application after due process.

(L) Incomplete applications and applications containing wrong claims or incorrect particulars relating to category of reservation / eligibility / age / gender / communal category / educational qualification / medium of instruction / physical qualification / other basic qualifications and other basic eligibility criteria will be summarily rejected after due process.

Clause 15 and 16

[internal page 25 and 26]

15. UPLOAD OF DOCUMENTS:

(a) In respect of recruitment to this post, the candidates shall mandatorily upload the certificates / documents (in support of all the claims made / details furnished in the online application) at the time of submission of online application itself. It shall be ensured that the online application shall not be submitted by the candidates without mandatorily uploading



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the required certificates.

(b) The applicants shall have the option of verifying the uploaded certificates through their OTR. If any of the credentials have wrongly been uploaded or not uploaded or if any modifications are to be done in the uploading of documents, the applicants shall be permitted to edit and upload / re-upload the documents till two days prior to the prior to the date of examination)

Refer Annexure V for the list of documents to be uploaded by the Applicants”

16. LAST DATE FOR SUBMISSION OF APPLICATION:

Online applications can be submitted / edited upto 03.05.2022 till 11.59 p.m. after which the link will be disabled and the uploaded documents can be re-uploaded upto 14.06.2022 till 11.59 p.m. (For detailed information, applicants may refer to the “Instructions to Applicants” at the Commission's website www.tnpsc.gov.in).”

It has been submitted that compliance of the aforesaid instructions are mandatory, which cannot be relaxed so as to extend the timeline. Reliance in this regard is placed on decisions of the Hon'ble Supreme Court of India in the ***Sanjay K. Dixit -vs- State of Uttar Pradesh*** [(2019) 17 SCC 373] and ***State of Tamil -vs- G.Hemalathaa*** [(2020) 19 SCC 430] and the Division Bench of this Court in ***P.Prabu -vs- V.Arunkumar*** (Order dated 11.03.2020 passed in W.A. No. 4318 of 2019).



5. In order to test the validity of the procedure followed by the Respondent in rejecting the applications for not submitting the required documents, it would be necessary to recapitulate the legal position relating to permissibility to produce documents in support of any claim for reservation in a recruitment process. After referring to the decision in **Charles K. Skaria -vs- Dr. C. Mathew** [(1980) 2 SCC 752], it has been succinctly observed by the Hon'ble Supreme Court of India in **Dolly Chhanda -vs- Chairman, JEE** [(2005) 9 SCC 779] as follows:-

“ 7. The general rule is that while applying for any course of study or a post, a person must possess the eligibility qualification on the last date fixed for such purpose either in the admission brochure or in application form, as the case may be, unless there is an express provision to the contrary. There can be no relaxation in this regard i.e. in the matter of holding the requisite eligibility qualification by the date fixed. This has to be established by producing the necessary certificates, degrees or marksheets. Similarly, in order to avail of the benefit of reservation or weightage, etc. necessary certificates have to be produced. These are documents in the nature of proof of holding of particular qualification or percentage of marks secured or



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entitlement to benefit of reservation. Depending upon the facts of a case, there can be some relaxation in the matter of submission of proof and it will not be proper to apply any rigid principle as it pertains in the domain of procedure. Every infraction of the rule relating to submission of proof need not necessarily result in rejection of candidature.”

It is contended by Learned Counsel appearing for the respective Petitioners that the Petitioners have attained the requisite qualifications even before the last date for submission of online applications which are evidenced by copies of those documents produced in these Writ Petitions.

6. At this juncture, it has to be noticed that the reasons for rejection of the applications of the respective Petitioners had not been disclosed by the Respondent till 22.02.2023 when the list of eligible candidates for on-screen certificate verification was published. It is needless to point out here that the Hon'ble Supreme Court of India in ***State of Orissa -vs- Binapani Dei*** (AIR 1967 SC 1269) has categorically ruled that any administrative decision entailing adverse civil consequences must be made consistently with the rules of natural justice by informing the person concerned of the case against him with the evidence in support thereof and after giving him an opportunity of



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being heard for meeting or explaining such evidence. Viewed from that perspective, it was certainly incumbent upon the Respondents to have informed the concerned applicants about their failure to upload the required documents in proof of their claim for reservation in the notified vacancies of the post and it is only in the event that they do not comply with the same within the specified time limit thereafter that they could be denied of their entitlement to be considered for selection. In the absence of any such exercise having been undertaken by the Respondent in that regard, it is not possible to sustain impugned action of the Respondent in straightaway rejecting the applications of the respective Petitioners in these cases.

7. The mandatory clauses in the recruitment notification mentioned supra, which are, no doubt, sacrosanct and binding on the candidates, cannot be stringently construed as empowering the Respondent to arbitrarily reject the application of the candidates without informing them of the reasons for the same and providing them of the opportunity to rectify the defects within a specified time limit. It would assume significance here that there is nothing to infer from the subsequent decision of Two Judges Benches of the Hon'ble Supreme Court of India in *Sanjay K. Dixit -vs- State of Uttar Pradesh* [(2019) 17 SCC 373] cited by the Respondent that the earlier authoritative



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pronouncement of the Larger Bench of Three Judges of the Hon'ble Supreme

Court of India in ***Dolly Chhanda -vs- Chairman, JEE*** [(2005) 9 SCC 752]

referred supra had been brought to the notice of the Court while deciding that case. The decision in ***State of Tamil Nadu -vs- G.Hemalathaa*** [(2020) 19 SCC 430] which pertains to markings made in the answer-sheet that has been followed in ***P.Prabu -vs- V.Arunkumar*** (Order dated 11.03.2020 passed in W.A. No. 4318 of 2019) has nothing to do with production of supporting documents as in this case. Moreover, the non-disclosure of the reason for rejection of the online applications of the candidates, which directly arises for consideration in these cases, does not appear to be the controversy involved in the decisions relied by the Respondents, which is certainly a distinguishing factor that would have to be taken into consideration. In this backdrop, it must be pointed out that the Hon'ble Supreme Court of India in ***Regional Manager -vs- Pawan Kumar Dubey*** [(1976) 3 SCC 334] has highlighted that it is the rule deducible from the application of law to the facts and circumstances of a case which constitutes its *ratio decidendi* and not some conclusion based upon facts which may appear to be similar. One additional or different fact can make a world of difference between conclusions in two cases even when the same principles are applied in each case to similar facts. The Constitution Bench of the Hon'ble Supreme Court of India in ***Padma Sundara Rao (Dead) -vs- State***



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of Tamil Nadu [(2002) 3 SCC 533] has aptly ruled in this regard as follows:-

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Courts should not place reliance on decisions without discussing as to how the factual situations fits in with the fact situation of the decision on which reliance is placed. There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case, said Lord Morris in Herrington Vs. British Railways Board (1972) 2 WLR 537. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases.”

8. It is not possible to countenance the reluctance expressed by the Respondent that it would amount to relaxation of the rules governing the recruitment process without reserving such power either in the recruitment notification or providing for the same in the relevant service rules, by permitting the candidates to produce the required documents after the time limit prescribed for the same in the recruitment notification. It cannot be gainsaid that Articles 14 and 16 of the Constitution have guaranteed equality of opportunity to all eligible citizens to compete in the recruitment process in



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public employment and the endeavour of the State always has to be to select the

best talent by comparative assessment of their *inter se* merit. The purpose of computerization is to eliminate arbitrariness and promote transparency in expeditiously conducting the recruitment process and cannot be used to defeat the pre-existing rights that have accrued to the competing candidates. The decision making process adopted by the Respondent in this case is patently faulty insofar as it relates to the rejection of the applications of the candidates, like the Petitioners, who had not uploaded documents in proof of their qualification for being considered for selection, without providing them any chance to submit the required documents after informing them of the same, as it results in enabling persons of lesser merit than them to get selected in their place. It is the failure of the Respondent to disclose the reasons for rejecting the application of the candidates, which necessitates this Court to require the Respondent to immediately correct such palpable error at the earliest point of time when it has been timely brought to judicial notice before the recruitment process has been completed, and any resistance by the Respondent to carry out the same would obviously vitiate the recruitment itself and unnecessarily delay the selection.



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9. In the list of register numbers of the candidates provisionally admitted to on-screen certificate verification published on 22.02.2023, it has been mentioned as follows:-

"Based on the outcome of onscreen certificate verification, the register numbers of candidates mentioned below have been provisionally admitted to Oral Test in the ratio of 1:2/1:3 based on the marks obtained by the candidates in the Written Examination and with reference to rule of reservation of appointments. The Oral Test will be held from 08.03.2023 to 23.03.2023 at the office of the Tamil Nadu Public Service Commission, TNPSC Road, Chennai – 600003. The candidates should attend the Oral Test with all original certificates in support of the claims made in their online applications.

The above details will be made available in the Commission's website and the candidates will be informed of the above fact only through SMS and E-mail accordingly. Individual Communication regarding the date and time of Oral Test / Certificate Verification and Oral Test will not be sent to the candidates by post."



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This Court during the hearing on 16.03.2023 had passed the following self-explanatory interim order:-

“ *Heard Learned Counsel for Parties.*

2. *Though the Respondents are not precluded from proceeding further to complete the recruitment process, the publication of the final result shall await further orders from this Court.*

Post these matters for orders on 20.03.2023. ”

In cases of this nature, it is also necessary to ensure that when a particular set of persons, like the Petitioners, are given relief by the Court, other identically situated persons, who have not approached the Court need to be treated alike by extending the same benefits, as not doing so would amount to discrimination in breach of the guarantee provided under Articles 14 and 16 of the Constitution as held by the Hon'ble Supreme Court of India in ***State of Uttar Pradesh -vs- Arvind Kumar Srivastava*** [(2015) 1 SCC 347].

10. The upshot of the forgoing discussion is that the Writ Petitions are ordered on the following terms:-

- (i) the Respondent shall forthwith inform through SMS, e-mail and publication in its official website to all those candidates (including the



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Petitioners) whose online applications have been rejected for failure to upload the required documents in support of their qualification for being considered for selection, to appear for oral interview along with originals of all required documents on specified dates for verification, and consider them for appointment as if their names had been included in the list of candidates provisionally admitted to on-screen certificate verification;

- (ii) in the event of the said candidates failing to produce the required documents on the specified dates, their respective applications shall be treated as rejected for not producing proof for the required qualification for the post;
- (iii) the final result of the impugned recruitment shall be published only after carrying out the aforesaid exercise;
- (iv) consequently, the connected miscellaneous petitions are closed; and
- (v) there shall be no order as to costs.

kv/Maya

20.03.2023
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Index: Yes/No

Neutral Citation: Yes/No

Note: Issue order copy by 21.03.2023.



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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 Examinations
Tamil Nadu Public Service Commission
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P.D. AUDIKESAVALU, J.

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20.03.2023

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