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*Rev.Appl.Nos.62 of 2022 & 60 of 2023
& Cont.P.No.286 of 2020 & W.A.Nos.1148 & 1149 of 2018*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 19.06.2023

Pronounced on : 12.09.2023

Coram:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Rev.Appl.No.62 of 2022
in WA.No.1150 of 2018
& CMP.Nos.9197 to 9199 of 2018

and

Rev.Appl.No.60 of 2023
in WA.No.1147 of 2018
& CMP.No.4886 of 2023

and

Cont.P.No.286 of 2020 in
W.A.No.1147 of 2018

and

W.A.Nos.1148 & 1149 of 2018

Rev.Appl.No.62 of 2022

M.Senthur Pandian

.... Petitioner

Vs.

The Secretary
Tamil Nadu Public Service Commission
Frazer Bridge Road, VOC Nagar,
Chennai 600 003.

.... Respondent

Prayer: Review Application filed under Order 47 Rule 1 r/w 114 of Civil
Procedure Code to review the Judgment passed in WA.No.1150 of 2018



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dated 31.08.2018.

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AND

Rev.Appl.No.60 of 2023

The Secretary
Tamil Nadu Public Service Commission,
Frazer Bridge Road, VOC Nagar,
Chennai 600 003.

.... Petitioner

Vs.

T.Sharmila

.... Respondent

Prayer: Review Application filed under Order 47 Rule 1 r/w 114 of Civil Procedure Code to review the Judgment passed in W.A.No.1147 of 2018 dated 11.09.2018.

AND

Cont.P.No.286 of 2020

T.Sharmila

.... Petitioner

Vs.

Thiru.K.Nanthakumar, I.A.S.,
The Secretary,
Tamil Nadu Public Service Commission
Frazer Bridge Road,
VOC Nagar, Chennai 600003.

.... Respondent

Prayer: Petition filed under Section 11 of the Contempt of Courts Act 1971, to punish the respondent herein for contempt for wilfully disobeying the orders of the Hon'ble High Court, Madras passed in W.A.No.1147 of 2018 dated 11.09.2018 with costs.



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AND

W.A.No.1148 of 2018

The Secretary
Tamil Nadu Public Service Commission
Frazer Bridge Road VOC Nagar
Chennai 600003

.... Petitioner

Vs.

Siva Subramaniyam

.... Respondent

Prayer: Writ appeal filed under Clause 15 of Letters Patent to set aside the judgement dt.20/11/2014 made in WP.No.25353/2013 and dismiss the writ petition.

AND

W.A.No.1149 of 2018

The Secretary
Tamil Nadu Public Service Commission
Frazer Bridge Road VOC Nagar
Chennai 600003

.... Petitioner

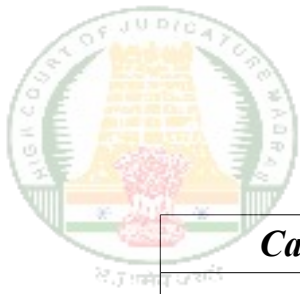
Vs.

B.H.Shajitha

.... Respondent

Prayer: Writ appeal filed under Clause 15 of Letters Patent to set aside the judgement dt.20/11/2014 made in WP.No.25354/2013 and dismiss the writ petition.

<i>Case Nos.</i>	<i>For Petitioner</i>	<i>For Respondent</i>
Rev.Appl.No.62 of 2022	Mr.Chellaiah, Senior Advocate for Mr.K.Sendurpandi	Mr.P.Wilson, Senior Counsel for Ms.G.Hema, Standing Counsel for TNPSC
Rev.Appl.No.60 of 2023	Mr.P.Wilson, Senior Advocate for Ms.G.Hema,	Ms.S.Kala



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Case Nos.	For Petitioner	For Respondent
	Standing Counsel for TNPSC	
W.A.Nos.1148 & 1149 of 2018	Mr.P.Wilson, Senior Advocate for Ms.G.Hema, Standing Counsel for TNPSC	No appearance
Cont.P.No.286 of 2020	M/s. S.Kala	Mr.P.Wilson, Senior Advocate for Ms.G.Hema, Standing Counsel for TNPSC

COMMON JUDGMENT

(Judgment of the Court was delivered by RMT.TEEKAA RAMAN, J.)

These two review application Nos.62 of 2022 & 60 of 2023 are filed to review the Judgment passed in WA.No.1150 of 2018 dated 31.08.2018 and Judgment passed in WA.No.1147 of 2018 dated 11.09.2018, respectively.

2. As the points involved in both the cases are one and the same, common arguments have been heard and common judgment is passed. For the sake of the convenience, the parties are referred to as per the litigative status in Rev.Appln.No.60 of 2023.

3. The Writ Petition has been filed by the respondent herein to issue a Writ of Mandamus, directing the petitioner herein to consider the claim of the



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respondent for appointment in Combined Subordinate Service Examination -

1 by accepting the degree qualification as satisfying the educational qualification and well within the cut of date, to consider and appoint the respondent forthwith. The said Writ Petition was allowed by the learned Single Judge by order dated 20.11.2014.

4. Initially four petitioners by name T.Sharmila (in W.P.No.25352 of 2013), Siva Subramaniyam (in W.P.No.25353 of 2013), B.H.Shajitha (in W.P.No.25354 of 2013) and M.Senthur Pandian (in W.P.No.25355 of 2013), have challenged a similar impugned order in the said Writ petitions and by a common order dated 20.11.2014, the same were allowed. Aggrieved against the said order, TNPSC has filed two appeals in W.A.No.1150 of 2018 and 1147 of 2018. While the W.A.No.1150 of 2018 was allowed on 31.08.2018, W.A.No.1147 of 2018 filed by the TNPSC was dismissed on 11.09.2018 and hence, these two review applications are filed. When the matter is taken up for final hearing, two more appeals have been filed and hence, the decision rendered in Rev.Appl.No.60 of 2023 will cover the field.

5. As stated supra, as against the order passed by the learned Single Judge on 20.11.2014, the review applicant herein has filed Writ Appeal No.1147 of 2018 before this Court and the same was dismissed observing that, as per the proviso of the Rule 12 of the General Rules for Tamil Nadu



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State and Subordinate Service Rules, regarding qualification, which provides that candidates, who have written the final degree examination, shall be admitted to the preliminary examination for recruitment to the posts included in Group-I Services, subject to the condition that such candidates should produce the proof of having passed the degree examination, with their application for the main written examination, failing which, they will not be admitted to the main written examination. The very proviso provides that it is only the date of writing the final degree examination and not the date of filing of the application. The only condition is that the candidate must produce the degree certificate to appear for the main examination, which is also applicable to the State Public Service Commission.

6. Thereafter, the present review application has been filed *inter-alia* on multiple grounds that earlier order passed by the Division Bench of this Court in W.A.No.1150 of 2018 dated 31.08.2018 was not considered by the Division Bench.

7. The petitioner in W.P.No.25355 of 2013, whose Writ petition has been allowed, however, the appeal filed by the Tamil Nadu Public Service Commission (TNPSC) was also allowed in W.A.No.1150 of 2018 dated 31.08.2018 relied upon the judgment passed in the W.A.No.1147 of 2018 and hence, sought a similar order of appointment and that Review Application is



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Rev.Appl.No.62 of 2022. The decision in Rev.Appl.No.60 of 2023 will cover the petition in Rev.Appl.No.62 of 2022.

8. The fair facts that are necessary for determining the Review Applications is that the respondent-individual has applied to the Review petitioner for appointment by direct recruitment to the posts included in the Combined Subordinate Service Examination - 1. The notification was issued on 13.06.2012. It also states that the candidates should possess the qualification on the date of the notification viz., 13.06.2012. The writ petitioner/respondent herein has written the examination much prior to the notification. However, the respondent got her result after the notification, she appeared for examination and interview was also called for. However, the petitioner by taking subsequent decision rejected the application of the respondent on the ground that her results having been declared after the date of notification. Therefore, the petitioner along with other similar candidates moved this Court by way of separate writ petitions seeking the above stated relief.

9. According to the Review petitioner, the respondent did not possess the prescribed qualification for the post as on the date of issuance of notification. Further, on the date of notification, the result of the petitioner was not declared.



10. Mr.P.Wilson, the learned Senior Counsel appearing for the Review Applicant/TNPSC drawn our attention to the proviso contained under Rule 12 of the above said Rules, would state that it is applicable only for recruitment to the posts included in Group-1 services, wherein the recruitment is based upon three-tier system Viz., Preliminary Examination, main and Viva voce, whereas in the instant case, it is only a two tier system, which is having a written examination and Viva voce and further stated that the proviso is applicable to Group-1 services and not for any other services.

11. The position of statutory Rule 12(b) (iv) of the General Rules for Tamil Nadu State and Subordinate Service Rules, reads as follows:-

"12(b) No person shall be eligible for appointment to any service by direct recruitment unless he satisfies the Commission in cases where the appointment has to be made in consultation with it or the appointing authority in other cases (i) XXXX (ii) XXXX (iii)

iv) that notwithstanding anything contained in the Special Rules, such a person also possess the qualification including experience prescribed for a post, on the date of notification of vacancy."

12. Based on the above Rule, learned Senior Counsel for TNPSC submitted that the Commission's decision to reject the applications of the petitioner is in accordance with the above said rules and the qualification of the petitioner must be with reference to date of notification of vacancy and



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not the qualifications acquired by the Writ petitioner and accordingly contended that, on the date of notification for the recruitment, the results of the petitioners who were not declared by the Anna University and the date of the notification of the recruitment is on 13.06.2012 and therefore, on the date of the notification it is mandatory that the Writ petitioner/respondent herein ought to have possessed the degree and relied upon the judgment of this Court in W.A.No.1150 of 2018 and the reasoning there for.

13. Heard the learned counsel for the respondent herein.

14. After perusal of the above stated Rule Viz., Rule 12(b) (iv) of the General Rules for Tamil Nadu State and Subordinate Service Rules, we are in agreement with the contention of the learned Senior Advocate that, proviso is applicable only for Group 1 services and admittedly, the present recruitment to the post does not fall under the Group 1 service.

15. Hence, I find that paragraph 6 of the impugned order in W.A.No.1147 of 2018 passed by the Division Bench dated 11.09.2018 (wherein, I am one of the party) does not fall under the category and therefore, the findings rendered by the Division Bench in paragraph 6 is error, apparent on the facts of the records as to the application of the Rules to the set of facts of the case.



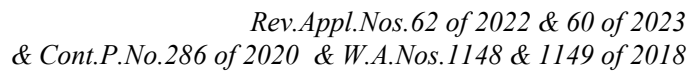
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16. We are fortified by the decision in W.A.No.613 of 2021 dated 06.06.2022 wherein, the very same TNPSC was the Appellate. There the Division Bench had followed the decision of the Division Bench in W.A.No.1150 of 2018 (the subject matter of the Rev.Appl.No.62 of 2022) since the ratio laid in therein is in consonance with the judgment of the Hon'ble Supreme Court reported in (2019) 3 SCC 511, where the Hon'ble Supreme Court at Paragraph 13 stated that,

“We are not for a moment doubting the correctness of the reasoning of the Division Bench in this case, that eligibility of the candidates must be decided with reference to the qualification possessed as on the cut-off date and the qualification acquired later in point of time cannot make a candidate eligible.”

And thus, with the consistent view of this Court, following the above stated judgement of the Hon'ble Supreme Court that, eligibility of the candidate must be decided with reference to the qualification possessed as on the cut-off date and the qualification acquired at later point of time cannot make the candidate eligible on the facts of the cut-off prescribed by the notification Viz., 13.06.2012.

17. Admittedly, both M.Senthur Pandian and T.Sharmila are not qualified for want of declaration of the results and hence, in view of the



Apex Court

Apex Court

Apex Court

Apex Court



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W.P.No.25355 of 2013 dated 20.11.2014 stands dismissed. Connected miscellaneous petitions are closed.

21. In view of the decision in Rev.Appl.No.60 of 2023, W.A.Nos.1148 & 1149 of 2023 stands allowed and subsequently, order passed in W.P.Nos.25353 & 25354 of 2013 dated 20.11.2014 stands dismissed.

(S.V.N.,J) (T.K.R.,J)
12.09.2023

Index: Yes/No
Speaking/Non-speaking order
Neutral citation: Yes/No
mpl

To

The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road, VOC Nagar,
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