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W.P.(MD)NO.6362 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 23.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.6362 & 10650 of 2023 AND
W.M.P.(MD)No.6021, 9414 & 9416 of 2023

W.P.(MD)No.6362 of 2023

1. S.Muthukumaran

2. S.S.Sivakumaar

... Petitioners

Vs.

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St. George,
Chennai – 600 009.

2. The Director of Public Libraries,
737/1, Anna Salai,
Chennai – 600 002.

3. The Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road, VOC Nagar,
Park Town, Chennai – 3.

4. K.Mala

(R-4 is impleaded vide order dated 25.04.2023
in W.M.P.(MD)No.8838 of 2023)

... Respondents



Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to pass orders to fill up the post of District Library officer in respect of vacancies from the year 2011-12 remain unfilled through recruitment by transfer from the post of Librarian Grade-I / Inspector of Libraries and consequently directing the respondents to consider the petitioners for promotion to the post of District Library officer based on seniority and eligibility in accordance with year wise panel as per Rules in force in all the panel years, in consideration of representation submitted by the petitioners dated 17.03.2022.

For Petitioners : Mr.G.Sankaran,
Senior Counsel,
for Mr.P.Deepak.

For R-1 & R-2 : Mr.Veera Kathiravan,
Additional Advocate General,
assisted by,
Mr.N.Satheeshkumar,
Additional Government Pleader.

For R-3 : Mr.J.Anandkumar

* * *

W.P.(MD)No.10650 of 2023

K.Mala

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St. George,
Chennai – 600 009.



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2. The Director of Public Libraries,
737/1, Anna Salai,
Chennai – 600 002.

3. The Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road, VOC Nagar,
Park Town, Chennai – 3.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned Advertisement and notification passed by the 3rd respondent vide Advertisement No.650 and notification No.04/2023 dated 31.01.2023 in so far as the post of District Library Officer concerned and quash the same as illegal.

For Petitioners : Mr.M.Ajmalkhan,
Senior Counsel,
for M/s.Ajmal Associates.

For R-1 & R-2 : Mr.Veera Kathiravan,
Additional Advocate General,
assisted by,
Mr.N.Satheeshkumar,
Additional Government Pleader.

For R-3 : Mr.J.Anandkumar

* * *

**COMMON ORDER**

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Heard the learned Senior counsel appearing for the writ petitioners and the learned Additional Advocate General assisted by the learned Additional Government Pleader appearing for respondents 1 and 2 and the learned counsel appearing for the third respondent.

2. The petitioners are presently working as Librarians Grade I. They question the impugned notification issued by the Tamil Nadu Public Service Commission calling for applications from eligible candidates for the post of District Library Officer.

3. The learned Senior counsel appearing for the writ petitioners reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned notification and grant relief as prayed for.

4. The second respondent as well as the Tamil Nadu Public Service Commission have filed counter affidavits and the learned Additional Government Pleader took me through their contents and submitted that



there is no merit in these writ petitions and pressed for dismissal of the same.

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

6. It is not in dispute that even though some amendments were made to the relevant recruitment rules vide G.O.(Ms)No.104 School Education (PL1) Department dated 23.05.2018, the amendments have not been so far gazetted. Therefore, we have to necessarily go by the pre-amendment position. The amendment to adhoc rules relating to temporary posts of District Library Officer in Education Department was made vide G.O.(Ms)No.1234 Education 27th June 1981. Rule 3 reads as follows:-

“Appointments – Appointment to the post shall be made as follows:-

(i) by recruitment by transfer from the post of Deputy Librarian of Connemara Public Library; or

(ii) by direct recruitment from among Librarians Grade-I in the Local Library Authorities; if no



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qualified and suitable person is available by the method in item (i) above; or

(iii) by recruitment by transfer from any other service, if not qualified and suitable person is available by the methods in items (I) and (ii) above; or

(iv) by direct recruitment from the open market, if no qualified and suitable person is available by the methods in items (i), (ii) and (iii) above.”

7. If this rule had remained unamended, certainly I would not have any hesitation to endorse the stand of the learned Senior counsel appearing for the petitioners straightaway. But an amendment was made vide G.O.Ms.No.129 Education, 3rd February 1986. The post-amendment rule reads as follows:-

“ (1) in rule 3, for item(iv), the following item and the provisions shall be substituted, namely:-

“(iv) by direct recruitment from the open market; provided that fifty per cent of the vacancies shall be reserved to be filled up by direct recruitment from the open market;



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Provided further that notwithstanding anything contained in this rule, the services of those persons who were temporarily appointed as District Library Officer in 1976 and have or had continued to hold the post thereafter and possess the requisite qualification shall be regularised after obtaining the concurrence of the Tamil Nadu Public Service Commission under the Tamil Nadu Public Service Commission Regulations, 1954”;

(2) after rule 3, as to amended, the following rule shall be inserted namely:-

“3-A Reservation of appointment – The rule of reservation of appointments (General Rule 22 of the Tamil Nadu State and Subordinate Service Rules) shall apply to the appointment of District Library Officers by direct recruitment from among Librarian Grade I in the Local Library Authorities and from open market.”
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8. In view of the 1986 amendment, the earlier restriction that the direct recruitment from the open market should be resorted to only after the earlier modes are exhausted did not hold good. 50% of the posts are earmarked for direct recruitment. It is seen from the materials on record that in the recent past as many as 12 vacancies were identified and out of them, 9 posts were filled up by way of promotion and the remaining 3 are now sought to be filled up by way of direct recruitment. The impugned notification has been issued only to fill up three vacancies. I am satisfied that there is no breach of the recruitment rules. No interference is warranted.

9. At this stage, the learned counsel appearing for the petitioners submitted that vide G.O.(Ms)No.3 School Education Department, dated 19.01.2022, a High Level Committee was constituted. The said committee is said to have submitted its report. It is stated that amendment has been suggested for reducing the percentage for direct recruitment from 50% to 25%. The first respondent herein is directed to take a call on the said report and finalise its decision within a period of sixteen weeks from the date of receipt of a copy of this order. The impugned



notification is sustained. With this direction to the first respondent, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

23.06.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No
PMU

To:

1. The Principal Secretary to Government,
School Education Department,
Secretariat, Fort St. George,
Chennai – 600 009.
2. The Director of Public Libraries,
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G.R.SWAMINATHAN,J.

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