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Review Application Nos.50, 51 & 52 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2024

CORAM:
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

Review Application Nos.50, 51 & 52 of 2024

against

W.P.Nos.4430, 4518 & 4431 of 2024

and

W.M.P.Nos.6949, 6958 & 6959 of 2024

(I)Review Application Nos.50 of 2024

against W.P.No.4430 of 2024

and W.M.P.No.6949 of 2024 :

1.B.Gharishma

2.B.Vaalakshmi

3.R.Karthikeyan

... Review Applicants/3rd parties

Vs.

1.P.Shri Dharshini

... Respondent/Petitioner

2.The State of Tamil Nadu,
Rep.by its Additional Chief Secretary to Government,
Home (Courts-I) Department,
Secretariat, Fort St.George,
Chennai – 600 009.



Review Application Nos.50, 51 & 52 of 2024

3.The Registrar General,
Madras High Court,
Chennai – 600 104.

4.The Secretary
Tamil Nadu Public Service Commission,
VOC Nagar, TNPSC Road,
Park Town, Chennai – 600 003.

... Respondents

PRAYER : Review Application filed under Order 47 Rule 1 read with Section 114 of C.P.C. praying to review the order passed by this Hon'ble Court in W.P.No.4430 of 2024 dated 27.02.2024.

For Petitioner : Mr.R.Singaravelan, Senior Counsel for
Mr.G.Sudangan

For Respondents : Mr.G.Sankaran, Senior Counsel for
Mr. G.M.Gokul Ram (for R1);

Mr.P.Ananda Kumar,
Government Advocate (for R2);

Mr.B.Vijay (for R3);

Mr.R.Bhavanidharan,
Senior Counsel (for R4).

(II)Review Application Nos.51 of 2024
against W.P.No.4518 of 2024
and W.M.P.No.6958 of 2024 :

1.B.Gharishma



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2.B.Vaalakshmi

3.R.Karthikeyan

... Review Applicants/3rd parties

Vs.

1.R.Sushmitha

2.E.Swetha

3.H.Nadia Fatima

... Respondents/Petitioners

4.The State of Tamil Nadu,
Rep.by its Additional Chief Secretary to Government,
Home (Courts-I) Department,
Secretariat, Fort St.George,
Chennai – 600 009.

5.The Secretary
Tamil Nadu Public Service Commission,
TNPSC Road,
VOC Nagar, Chennai – 600 003.

6.The Registrar General,
Madras High of Judicature at Madras,
Chennai – 600 104.

... Respondents

PRAYER: Review Application filed under Order 47 Rule 1 read with Section 114 of C.P.C. praying to review the order passed by this Hon'ble Court in W.P.No.4518 of 2024 dated 27.02.2024.



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Review Application Nos.50, 51 & 52 of 2024

For Petitioner : Mr.R.Singaravelan, Senior Counsel for
Mr.G.Sudangan

For Respondents : Mr.P.Ananda Kumar,
Government Advocate (for R4);

Mr.R.Bhavanidharan,
Senior Counsel (for R5);

Mr.B.Vijay (for R6);

(III)Review Application Nos.52 of 2024
against W.P.No.4431 of 2024
and W.M.P.No.6959 of 2024 :

1.B.Gharishma

2.B.Vaalakshmi

3.R.Karthikeyan ... Review Applicants/3rd parties

Vs.

1.D.Dinesh

2.M.Gokul Mithun Kumar

3.S.Adhu Siva Subramanian

4.P.Jesu Balan ... Respondents/Petitioners

5.The State of Tamil Nadu,
Rep.by its Additional Chief Secretary to Government,



Review Application Nos.50, 51 & 52 of 2024

Home (Courts-I) Department,
Secretariat, Fort St.George,
Chennai – 600 009.

6.The Registrar General,
Madras High Court,
Chennai – 600 104.

7. The Secretary
Tamil Nadu Public Service Commission,
VOC Nagar, TNPSC Road,
Park Town, Chennai – 600 003.

... Respondents

PRAYER : Review Application filed under Order 47 Rule 1 read with
Section 114 of C.P.C. praying to review the order passed by this Hon'ble
Court in W.P.No.4431 of 2024 dated 27.02.2024.

For Petitioner : Mr.R.Singaravelan, Senior Counsel for
Mr.G.Sudangan

For Respondents : Mr.G.Sankaran, Senior Counsel for
Mr.G.M.Gokul Ram (for R1 to R4);

Mr.P.Ananda Kumar,
Government Advocate (for R5);

Mr.B.Vijay (for R6);

Mr.R.Bhavanidharan,
Senior Counsel (for R7);

COMMON ORDER



Review Application Nos.50, 51 & 52 of 2024

(Order of the Court was delivered by S.M.Subramaniam J.)

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Review petitions are filed against the common order passed in W.P.Nos.4430, 4518 & 4431 of 2024, dated 27.02.2024.

2. The learned Senior Counsel, Mr.R.Singaravelan, appearing on behalf of the review petitioners, would mainly contend that the judgment sought to be reviewed, if implemented, would result in far-reaching consequences. The earlier judgments of the Supreme Court have not been considered by this Court while passing orders in the writ petitions.

3. The learned Senior Counsel, Mr.Singaravelan, relied on the judgments to establish that the backlog vacancies are to be filled up first from the merit list and thereafter, the remaining current vacancies are to be filled up from amongst the candidates as per merits. At the outset, learned Senior Counsel is of the opinion that first 92 carry forward vacancies, in the present case, must be filled up based on the merit list at the first instance, and thereafter, the current vacancies are to be filled up. The same argument



was advanced by the Tamil Nadu Public Service Commission during the final hearing of the writ petitions, and was considered by this Court. We have followed Section 27(f) of the **The Tamil Nadu Government Servants (Conditions of Service) Act, 2016**, as interpreted by the Hon'ble Supreme Court, in the case of *Tamil Nadu vs. K.Shobana, reported in 2021 4 SCC 686*. The Supreme Court, in the case cited supra in unequivocal terms, held that in the merit list, the candidates who are placed as toppers must be accommodated in general turn vacancies and thereafter, the carried forward vacancies and current year vacancies are to be filled up. In this context, paragraph 26 of the Hon'ble Supreme Court case cited supra is extracted as under:

“26. There can be no doubt about the proposition that if a word is used in a statute, it cannot be made otiose as held in Hardeep Singh [Hardeep Singh v. State of Punjab, (2014) 3 SCC 92, paras 42 to 45 : (2014) 2 SCC (Cri) 86] . However, that is not the factual scenario in this case. The question arises as to at which stage would Section 27 of the Act operate, and where in the list, the application of the “first” principle would apply. Section 27 deals with the reservation. It has nothing to do with the general candidates list/General Turn vacancies. Such of



the candidates who have made it on their own merit albeit, from reserved category, have not sought the benefit of the reservation. Thus, Section 27 of the Act would have nothing to do up to that point. Section 27 would apply only when the reservation principle begins, which is after filling up of the seats on merit. Thus, the word “first” would apply at that stage i.e. the backlog vacancies have to be filled in first and the current vacancies to be filled in thereafter. At the stage when the general category seats are being filled, there is thus no question of any carry forward or current vacancies for reserved category arising at all.”

4. We could not able to find out the interpretation of Section 27(f) of the Act in any other judgments relied on by the petitioners. It is not in dispute that the recruitment notification contains distribution of vacancies. Further it is stated that first the selection will be made for 92 carried forward vacancies and section 27 of the The Tamil Nadu Government Servants (Conditions of Service) Act, 2016 would be applicable. Thereafter, the current vacancies are to be filled up by following the rule of reservation. It is not in dispute that composite selection process was conducted both for the



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carry forward vacancies and for the current vacancies. Common preliminary and main examinations were conducted. Common merit list was prepared.

The only interpretation offered by this Court was that the meritorious candidates / toppers must be accommodated in the general turn vacancies and thereafter, the carry forward vacancies are to be filled based on the ranking, by accommodating the reserved candidates and thirdly the current vacancies are to be filled up by following the rule of reservation. Section 27(f), as interpreted by the Apex Court in the case of ***K.Shobana*** cited supra, was followed by us, while issuing directions to the Tamil Nadu Public Service Commission, to revise the provisional select list. In other words, we have not interfered with the process of selection, including the preliminary examination and the main examination already conducted. We have directed the Tamil Nadu Public Service Commission to revise the provisional selection list published, by adopting the interpretation made by the Hon'ble Supreme Court of India.

5. We have gone through the grounds raised in the present review



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petition. The main ground raised in the review petition is that 92 carried forward vacancies suffered the rule of reservation for the second time and it is unsustainable in the eye of law. Learned Senior Counsel, Mr.Singaravelan, reiterated that first 92 carried forward vacancies are to be filled up from amongst the toppers/meritorious candidates. This ground was already considered by this Court.

6. Thus we do not find any error apparent for reviewing the order passed by us. The scope of review petition cannot be expanded for the purpose of adjudication of grounds raised on merits. None of the candidates have challenged the recruitment notification, but participated in the process of selection. The preliminary examination and the main examinations remain unchallenged. The only dispute was regarding interpretation of Section 27(f), as done by the Apex Court and its implications.

7. Therefore, we have directed the Tamil Nadu Public Service



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K.RAJASEKAR, J.

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