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W.P.No.12254 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2024

CORAM :

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.12254 of 2024
and W.M.P.No.13346 of 2024

M.Sathiya

... Petitioner

Vs

1. Tamil Nadu Public Service Commission,
Rep. by its Secretary,
Public Service Commission Road,
Park Town, Chennai – 600 003.

2. The Director of Government
Examination,
Chennai.
(Suo motu impleaded as
per order dated 30.04.2024
in W.P.No.12254 of 2024)

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondent to assign rank to the petitioner under PSTM category by applying the benefit of 20% reservation to the petitioner under the Tamil Nadu Appointment on Preferential Basis in the serviced under the State of Persons Studied in Tamil Medium Act 2010, (PSTM quota) and to call the petitioner for certificate verification and oral test in accordance with the rank secured by the petitioner in PSTM category.



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For Petitioner : Mr.Prem Narayan
For Mr.K.T.S.Sivakumar
For Respondents
For R1 : Mrs.G. Hema
Standing Counsel
For R2 : Mr.S.Arumugam
Government Advocate

ORDER

This writ petition has been filed for direction directing the respondent to assign rank to the petitioner under Persons Studied in Tamil Medium (hereinafter referred to as “PSTM”) quota in Group II/Group II A services, as per the notification dated 23.02.2022.

2. The petitioner is qualified with B.Lit., in Tamil and she studied her entire studies in Tamil Medium. However, upto 11th standard, she studied in the Government Higher Secondary School, Nathamedu and due to her family circumstances, she could not continue her studies in the same school. Thereafter, she appeared privately in the 12th standard examination and she had written the examination in Tamil and passed out.



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3. While being so, the first respondent notified the notification dated 23.02.2022, inviting application for direct recruitment to 5413 posts included in group II & group II-A services, Combined Civil Service Examination-II, interview/non-interview posts. The petitioner is being qualified to participate in the said recruitment under PSTM quota and attended written examination. In the written examination, the petitioner had secured 70.5 marks in Paper-I and 142.25 marks in Paper-II. Her overall rank is 5931 and communal rank is 1765. However, the petitioner was not declared under PSTM category as such, the petitioner submitted representation. She was orally informed that she had studied her school studies till 11th standard and she passed 12th examination as a private candidates as such, she is not entitled for PSTM quota in view of the government order in G.O.No.82 Human Resources (S) Department dated 16.08.2021. Hence, the petitioner filed the present writ petition with the above prayer.

4. The learned counsel appearing for the petitioner submitted that the petitioner was issued with PSTM certificate for her school studies as well as degree. After completion of her 11th standard, she could not able to continue 12th standard in the same school, which she had studied



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up to 11th standard. Therefore, she had written the 12th examination privately in Tamil medium and passed out. In the 12th standard mark sheet also, it is mentioned as the petitioner had undergone examination in Tamil medium. The government order in G.O.Ms.No.82 Human Resources (S2) Department dated 16.08.2021 doesn't disqualify the petitioner, and it disqualifies the candidates those who have directly passed Higher Secondary course without going to school.

5. On instructions, the learned Standing Counsel appearing for the first respondent submitted that the petitioner is disqualified as per the government order in G.O.Ms.No.82 Human Resources Management (S) Department, dated 16.08.2021. The intention of the said government order is that to provide preferential appointment opportunities for those who have pursued their studies in Tamil medium entirely, i.e., from first standard up to the qualifications prescribed. It was not intended to provide benefit of preferential appointment only on the strength of pursuing the qualification curriculum in Tamil medium. In support of her contention, she relied upon the judgment of the Hon'ble Supreme Court of India made in *S.L.P.(Civil) Nos.3364-3367 of 2022* dated *31.07.2023* in the case of *S.Shriram Vs. G.Sakthi Rao & ors.*, which held as follows:-



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“8. The Act No. 40 of 2010 was enacted primarily to provide employment opportunities to persons who have studied in Tamil medium at all levels of education and preferential appointment is envisaged under Section 3 to the extent of 20% of all vacancies for those who have studied in Tamil medium.

9. On reasonable construction of the various provisions of the Act, it is discernible that it was intended to provide preferential appointment opportunities for those who have pursued their studies in Tamil medium entirely, i.e., from first standard up to the qualification prescribed. It was not intended to provide the benefit of preferential appointment only on the strength of pursuing the qualification curriculum in the Tamil medium.

10. When we look at the 2010 enactment in the above light, the amendment incorporated in the year 2020 has to be construed as nothing more than a clarificatory amendment of what was originally provided for in the 2010 Act. Some ambiguity remained in the interpretation of the term “persons studied in Tamil medium” as defined under Section 2(d). The amending Act of 2020 is only to ensure proper construction of Section 2(d) to achieve the objective of the Act so that only those who have pursued their



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education in Tamil medium, would be entitled to compete for 20% of the jobs in the State earmarked for them.

11. Unless such an interpretation is given to the relevant section in the Tamil Nadu Act No.40 of 2010 as amended in 2020, the Act would fail to fully achieve the legislative intent of the enactment.

12. The Amending Act by applying the rules of purposive interpretation, should be construed as an explanatory Act consistent with the objective of the Act No.40 of 2010. The impugned judgment of the High Court as can be noticed proceeds on this basis. Therefore, we see no infirmity with the view taken by the Division Bench in its declaration that the 20% reservation envisaged under the Tamil Nadu Appointment on Preferential Basis in the Services under the State of Persons Studied in Tamil Medium Act, 2010 (Act No. 40 of 2010) is available only to those who undertook their entire education only in the Tamil medium i.e., right from the first standard up to the prescribed qualification.”

6. Heard the learned counsel appearing on the either side and



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perused the materials placed before this Court.

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7. There is absolutely no dispute that 20% reservation in recruitment under the State of Persons Studied in Tamil Medium Act, 2010, is available to one undergone the entire education only in Tamil medium viz., right from the first standard up to qualification prescribed. Whereas in the case on hand, admittedly the petitioner had studied her school studies till 11th standard in Tamil medium and she could not attend the classes of 12th standard due to her family circumstances. Therefore, she discontinued the school and privately had written the examinations of 12th standard.

8. On perusal of the mark sheet produced by the petitioner also revealed that the petitioner had undergone the 12th examinations in Tamil medium. That apart, no one can write 12th examinations in English, all along completed the school studies up to 11th standard in Tamil medium and it is not possible for the candidate to write in English medium. Further the petitioner was also issued PSTM certificate for her 12th standard as she studied in Tamil medium, by the Director of Government Examinations.



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9. Further, this Court clarifies the government order in G.O.Ms.No.82 Human Resources Management (S) Department dated 16.08.2021 in the order passed in ***W.P.Nos.4129 & 22818 of 2022*** by an order dated ***11.03.2024*** and held as follows :-

“12.....Therefore, the benefit of PSTM Act confers only to acknowledge who have studied Tamil as medium of instruction from 1st standard upto the prescribed qualification for a particular post as against the basic principle of Article 14 of Constitution of India. Further, it goes against the very purpose of the PSTM Act which was brought into force only to overcome the inequality created among candidates studying in Tamil medium when compared to those who are studying in English Medium who would have better employment scope. Therefore, the candidates should have studied their entire education up to requisite qualification in Tamil medium of instruction is entitled to apply under PSTM quota.

13. In view of the above, the Government Order in G.O.Ms.No.82, Human Resources Management (s) Department dated 16.08.2021 on the file of the 1st respondent insofar as clause 4(iii) "only those who studied their entire education through out in Tamil



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medium viz., right from 1st standard upto prescribe qualification." is modified as "only those persons who have completed their entire education right from their schooling up to the qualification prescribed in the relevant service rules".

10. Accordingly, the petitioner had completed her entire school education up to the prescribed qualification in Tamil medium. Therefore, the government order in G.O.Ms.No.82 Human Resources Management (S) Department dated 16.08.2021, doesn't disqualify the petitioner. The petitioner had passed her 12th standard examination as private candidate under Tamil medium. Therefore, the petitioner is entitled to get appointment under the PSTM quota.

11. Further, in view of the interim order passed by this Court dated 30.04.2024, the first respondent permitted the petitioner to participate in the selection process. Accordingly, the petitioner was subjected for certificate verification and she has been allotted provisionally in the post of Assistant in Rural Development and Panchayatraj Department, Tiruppur. The above selection is withheld and the first respondent is directed to issue appointment order to the



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petitioner for the post of Assistant in Rural Development and
Panchayatraj Department, forthwith.

12. With the above directions, the Writ Petition stands allowed.

Consequently, connected miscellaneous petition is closed. There shall be
no order as to costs.

31.07.2024

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No

rts



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To
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1. The Secretary,
Tamil Nadu Public Service Commission,
Public Service Commission Road,
Park Town, Chennai – 600 003.
2. The Director of Government
Examination,
Chennai.



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G.K.ILANTHIRAIYAN. J.

rts

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