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W.A.Nos.1650 and 1651 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2024

CORAM :

THE HONOURABLE MR.R.MAHADEVAN, ACTING CHIEF JUSTICE

and

THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Appeal Nos.1650 and 1651 of 2024

&

C.M.P. No. 11627 of 2024

- 1.S.Nithesh
- 2.M.Raghurham
- 3.P.Anand Babu
- 4.A.Jayanthi
- 5.S.Nagasundaram
- 6.T.Premkumar
- 7.C.Senthilvel
- 8.D.Vaishnavi
- 9.E.Kaarthik Nivedan
- 10.N.Niranjana Devi

.. Appellants in
both Writ Appeals

Versus

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Human Resources Management (M) Department,
Fort St.George, Chennai - 600 009.
- 2.The Tamil Nadu Public Service Commission,
Rep. by its Secretary, TNPSC Road, VOC Nagar,
Park Town, Chennai - 600 003.

.. Respondents in
both Writ Appeals



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Prayer in both Writ Appeals: Writ Appeals filed under Clause 15 of the Letters Patent, against the order dated 30.05.2024 passed in W.P.Nos.13034 and 13038 of 2024.

For Appellants in both Writ appeals	: Mrs.Nalini Chidambaram Senior Advocate For Mrs. C. Uma
For Respondents in both Writ Appeals	: Mr. D. Ravichander Special Government Pleader for R1 Ms. G. Hema for R2

COMMON JUDGMENT

[Judgment of the Court was delivered by The Hon'ble Acting Chief Justice)

These writ appeals have been filed by the writ petitioners challenging the common order dated 30.05.2024 passed by the learned Judge in dismissing W.P.Nos.13034 and 13038 of 2024 filed by them.

2. In the aforesaid writ petitions, the appellants, who are English medium students, challenged G.O. (Ms). No. 133, Human Resource Management (M) Department, dated 01.12.2021 issued by the Government of Tamil Nadu and the consequential recruitment notification No.1 of 2024 dated 30.01.2024 issued by the Tamil Nadu Public Service Commission (in short, "the TNPSC"). A direction has also been sought to the TNPSC to amend clause 4 of the said recruitment notification dated 30.01.2024.

3. By G.O.Ms.No.133 dated 01.12.2021, Tamil language paper in all the



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competitive examinations was made mandatory for direct recruitment conducted by all recruiting agencies in the State. Pursuant to the same, the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, was amended by inserting Section 21A, which mandates that any person applying for recruitment to any post in any service by direct recruitment shall pass the Tamil language paper in the examination with not less than 40% marks. While so, the TNPSC issued Notification No.1/2024 dated 30.01.2024 for filling up 6,244 vacancies in 32 posts included in the Combined Civil Services Examination IV (Group IV Services). Feeling aggrieved, the appellants were before the learned Judge.

4. It was stated by the appellants before the learned Judge that for all other examinations, Tamil is only an eligibility test. However, singling out the Combined Civil Services Examination Group-IV from other examinations in Civil Services and Technical Services and stipulating that the test in Tamil as both eligibility-cum-scoring test is discriminatory and violative of Article 14 of the Constitution of India. This policy disproportionately favours Tamil medium students, effectively depriving English medium students from competing for posts in the State by reserving 100% of the posts for those who had studied in Tamil medium.

5. After hearing both sides, the learned Judge by the common order impugned herein, dismissed the writ petitions, the relevant portion of which is



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extracted hereunder:

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"10. It is seen that the candidates have to write two papers; Part-A and Part-B. In Part-A is Tamil eligibility and scoring test. Both the papers carry 150 marks each. Part-B answer paper will be taken up for evaluation only if the candidate had secured 60 marks in Part-A paper. If the contention of the learned Senior counsel appearing for the petitioners is accepted, the candidate who secures 150 marks in part-A and the one who secures 60 marks will have to be put on the same footing. The petitioners want this Court to hold that selection should be based only on the performance in Part-B. This contention is without any merit. I endorse the stand of the learned Advocate General that in such policy matters, the writ Court ought not to interfere. The employer can very well stipulate that marks secured in both the papers will be taken into account. There is nothing unreasonable in the stand taken by the respondents. In matters concerning recruitment, the employer can prescribe the qualifications and unless it is illegal or without jurisdiction, the Court ought not to interfere. Section 21-A of the Act is holding the field. The impugned Government Order is in consonance with Section 21-A of the Act. The recruitment notification was issued in consonance with the impugned Government Order. There is no merit in the writ petitions. They are dismissed. No costs. Consequently, connected miscellaneous petitions are closed."

6. Challenging the dismissal of the writ petitions by the learned Judge, the appellants have filed these writ appeals before this Court.

7. The learned senior counsel for the appellants submitted that the scheme of examination prescribed in the impugned Notification is arbitrary and discriminatory as it puts the English medium students like the appellants at a disadvantageous position compared to Tamil medium students. Adding further, it is submitted that treating the Tamil language paper (Part A) as both eligibility-cum-scoring test for 150 marks, out of total 300 marks, is unreasonable. Therefore, the learned senior counsel submitted that the Tamil



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paper with 40% marks should be made the eligibility criterion and marks obtained in Part B alone should be considered for ranking.

7.1. Continuing further, it is submitted that the impugned scheme violates the two language policy of the State Government, which prescribes both Tamil and English media of instruction in all Government Schools, Colleges and other institutions in Tamil Nadu. That apart, the scheme indirectly provides for 100% reservation for Tamil medium students, contrary to the 20% horizontal reservation provided for Persons Studied in Tamil Medium (PSTM) under the Tamil Nadu Act 40 of 2010. Thus, according to the learned Senior counsel, the syllabus prescribed for the Tamil Eligibility-cum-Scoring Test is of such a level that unless candidates have studied in Tamil Medium from 6th to 12th standard, they will not be able to score well, effectively making it impossible for English medium students to compete.

7.2. It is also submitted by the learned Senior counsel that the impugned Government Order and Notification are *ultra vires* Section 21A of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, which only mandates passing the Tamil paper with 40% marks and does not contemplate using it as a scoring test. Further, the scheme is contrary to the earlier policy where candidates had the option to choose either General Tamil or General English for 100 marks, in addition to General Studies and Aptitude test for 200 marks. That apart, the clauses in Annexure II to Notification



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No.1/2024 dated 30.01.2024 dealing with reservations are illegal. Therefore, the learned senior counsel submitted that if the present scheme is implemented, it will deprive the English medium students from competing for the 6,244 vacancies in the 32 posts notified. Without considering all these aspects in proper perspective, the learned Judge erred in dismissing the writ petitions, by the order impugned herein, which will have to be set aside.

8. Opposing the reliefs sought by the appellants, the learned Special Government Pleader appearing for the first respondent and the learned counsel for the second respondent submitted that the impugned Notification is in consonance with Section 21-A of the Tamil Nadu Government Servants (Conditions of Service) Act 2016 and that, the policy decision has been consciously taken by the Government and the same cannot be assailed on the grounds canvassed by the appellants. Thus, according to the learned counsel, the learned Judge has correctly dismissed the writ petitions filed by the appellants, which need not be interfered with by this court.

9. We have considered the submissions made on either side and perused the materials available on record.

10. It is the grievance of the appellants that pursuant to G.O.Ms.No.133 dated 01.12.2021, the General English paper was omitted and Part A



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Examination was converted into Tamil Eligibility-cum-scoring test. In view of the same, candidates from English medium schools will not score sufficient marks in Part A Examination and hence, will lose the opportunity to get selected to posts in Group IV services notified under Notification No.1/2024 dated 31.01.2024, impugned in the writ petitions. Further, it is alleged by the appellants that this scheme i.e., total marks from both Parts considered for ranking, disproportionately favours Tamil medium students and effectively deprives English medium students of the opportunity to compete for State posts. That apart, Annexure-II of the notification dealing with (i)reservation for women at 30%, (ii)reservation of 10% of the 30% reserved for women to be reserved for Destitute Women, and (iii)reservation for PSTM candidates, is illegal.

11. At the outset, it is but necessary to look into the scheme of examination prescribed in clause 4 of the aforesaid notification, which reads as under:

Type of Examination: Objective Type (OMR Method)					
Part	Subject	No. of questions	Maximum marks	Duration	Minimum qualifying marks for selection (All communities)
Single Paper (SSLC Standard)					
Part A	Tamil Eligibility -cum- Scoring Test	100	150	3 Hours	90



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Type of Examination: Objective Type (OMR Method)					
Part B	General Studies	75	150		
	Aptitude and Mental Ability Test	25			
Total		200	300		

4.1: Part B of the answer sheet will be evaluated only if the candidates secures minimum qualifying marks of 40% (i.e. 60 marks) in Part A. Total marks secured in Part- A and Part- B taken together will be considered for ranking. The questions in Part -A Tamil Eligibility-cum-Scoring Test will be set in Tamil only. The questions in Part B will be set both in Tamil and English.

4.2: Differently Abled candidates (irrespective of the percentage of disability) who have studied English subject only in Board / University can avail exemption from writing the Tamil Eligibility -cum-Scoring Test and instead, they can opt for General English (SSLC Standard). There will be no translation part in this paper. The question in Part - A of General English will be set in English only. Such candidates should furnish the required details in the application and upload the Certificate of Disability in the format prescribed in Annexure -II of this notification, at the time of submission of the online application, without fail."

It is clear from the above that there are two parts viz., Part A, a Tamil Eligibility-cum-Scoring Test for 150 marks; and Part B comprising General Studies, and Aptitude and Mental Ability Test for another 150 marks; and that Part B would be evaluated only if the candidates secure minimum qualifying marks of 40% (60 marks) in Part A and the total marks from both Parts would be considered for ranking.

12. This Court is of the opinion that the requirement of Tamil language proficiency for Group IV services is a legitimate exercise of the State's power to ensure effective governance and public service delivery. It is essential for public servants in Tamil Nadu to be able to communicate with the people they



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serve in the State's language. This is a reasonable expectation and does not unfairly disadvantage to the appellants. Moreover, this scheme does not amount to indirect reservation for Tamil medium students, as alleged by the appellants. That apart, the 20% horizontal reservation provided for Persons Studied in Tamil Medium (PSTM) under the Tamil Nadu Act 40 of 2010, which is a separate provision, is in no way connected to the issue involved herein. It is apposite to mention here that the nature of duties of these public servants requires them to be familiar with Tamil. Further, it is the specific case of the respondent authorities that the requirement of Tamil language proficiency is a distinct and necessary criterion for effective public service delivery in Tamil Nadu, specifically for the Group IV services. Hence, without concrete material, it cannot be said by the appellants that the impugned scheme would indirectly give 100% reservation of posts in Group IV services to Tamil Medium candidates.

13. That apart, it is well settled that Courts should exercise judicial restraint in matters of policy decisions by the Government, especially in matters of public employment. The Government, as employer, has ample powers in prescribing qualifications and scheme of examination for recruitment to public posts. Unless the qualification prescribed is shown to be manifestly arbitrary or violative of any Constitutional or Statutory provisions, such policy



decisions should not be interfered with by Courts. In **Zahoor Ahmad Rather**

v. Sheikh Imtiyaz Ahmad (2019) 2 SCC 404, the Supreme Court categorically held that it is for the employer to determine and decide the relevancy and suitability of qualifications for any post. For better appreciation, the relevant portion of the said order is extracted hereunder:-

"22. We are in respectful agreement with the interpretation which has been placed on the judgment in Jyoti KK in the subsequent decision in Anita (supra). The decision in Jyoti KK turned on the provisions of Rule 10(a)(ii). Absent such a rule, it would not be permissible to draw an inference that a higher qualification necessarily pre-supposes the acquisition of another, albeit lower, qualification. The prescription of qualifications for a post is a matter of recruitment policy. The state as the employer is entitled to prescribe the qualifications as a condition of eligibility. It is no part of the role or function of judicial review to expand upon the ambit of the prescribed qualifications. Similarly, equivalence of a qualification is not a matter which can be determined in exercise of the power of judicial review. Whether a particular qualification should or should not be regarded as equivalent is a matter for the state, as the recruiting authority, to determine. The decision in Jyoti KK turned on a specific statutory Rule under which the holding of a higher qualification could presuppose the acquisition of a lower qualification. The absence of such a Rule in the present case makes a crucial difference to the ultimate outcome. In this view of the matter, the Division Bench of the High Court was justified in reversing the judgment of the learned Single Judge and in coming to the conclusion that the Appellants did not meet the prescribed qualifications. We find no error in the decision of the Division Bench."

14. The learned Judge, after taking note of the relevant provision of the

<https://www.mhc.tn.gov.in/judis> Act and the scheme of examination, was of the view that the employer can very



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well stipulate that marks secured in both the papers will be taken into account and there is nothing unreasonable in the stand taken by the respondents.

Accordingly, it was held that Section 21-A of the Act is holding the field; the impugned Government Order is in consonance with Section 21-A of the Act; and the recruitment notification was issued in consonance with the impugned Government Order. Having held so, the learned Judge rightly dismissed the writ petitions as devoid of merits.

15. In such view of the matter, the order impugned in these appeals does not warrant any interference by this Court.

Accordingly, the writ appeals are dismissed. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., A.C.J.] [M.S.Q, J.]
05.07.2024

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Index: Yes / No.

Speaking order/ Non-speaking order

Neutral Citation: Yes / No.



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1. The Secretary to Government,
Government of Tamil Nadu,
Human Resources Management (M) Department,
Fort St. George, Chennai - 600 009.

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

THE HON'BLE ACTING CHIEF JUSTICE
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MOHAMMED SHAFFIQ, J.

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