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W.P.No.19084 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2024

CORAM:

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

W.P.No.19084 of 2022
and
W.M.P.No.18394 of 2022

S.Tamizharasi

... Petitioner

-Vs-

1. The Additional Chief Secretary,
Government of Tamil Nadu,
Human Resource Management Department,
Secretariat, St.George Fort,
Chennai 600 009.

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

3. The Secretary,
Department of Higher Education,
Government of Tamil Nadu,
Secretariat, St.George Fort,
Chennai-600 009.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to exempt the application of the Amendment in Act No.35 of 2020 to the Tamil Nadu Appointment on Preferential Basis in the Services under the State of Persons Studied in Tamil Medium (PSTM in short) Act, 2010 for the candidates



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participating in the Technical examinations conducted by second respondent after completing engineering on regular basis from 2010-2020.

For Petitioner : M/s.M.Karpagam

For R1 and R3 : Mr.K.H.Ravikumar
Government Advocate

For R2 : Mr.Abrar Mohammed Abdulla
Standing Counsel

ORDER

This Writ Petition has been filed for direction directing the respondents to exempt the application of the Amendment in Act No.35 of 2020 to the Tamil Nadu Appointment on Preferential Basis in the Services under the State of Persons Studied in Tamil Medium (PSTM in short) Act, 2010 for the candidates participating in the Technical examinations conducted by second respondent after completing engineering on regular basis from 2010-2020.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The petitioner had completed Civil Engineering from the College of Engineering Guindy, Anna University in Tamil Medium (2014-2018). However, she studied in English Medium up to +2. She was issued with Persons Studied in Tamil Medium (herein after called as “PSTM”) certificate, for availing 20%



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reservation in Government examination. The Government of Tamil Nadu, in order to safeguard the Tamil language and in order to increase the number of students who enroll in Tamil Medium, the Tamil Nadu Appointment on Preferential Basis in services under the PSTM Act, 2010 was enacted, which came to effect on 07.09.2010. Thereafter, the amendment to Section 2(d) of the PSTM Act (herein after called as “the Act”) came into force. Accordingly, a person studied in Tamil medium means, “a person who has studied through Tamil medium of instruction upto the educational qualification prescribed for direct recruitment in the rules or regulations or orders applicable to any appointment in the services under the State”.

4. Amendment to Section 2(d) of the Act reads as follows:-

"(d) "persons studied in Tamil medium" means a person who has studied through Tamil medium of instruction upto the educational qualification prescribed for direct recruitment in the rules or regulations or orders applicable to any appointment in the services under the State."

Explanation- *For the purpose of this clause, (i) in cases, where SSLC is prescribed as the educational qualification, one shall have studied upto SSLC through Tamil medium of instruction;*

(ii) in cases, where a Higher Secondary Course is prescribed as the educational qualification, one shall have studied SSLC and the Higher Secondary Course through Tamil medium of instruction;

(iii) in cases, where a diploma is prescribed as the educational qualification, one shall have studied SSLC and the



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diploma through Tamil medium of instruction or if the diploma is obtained after completion of Higher Secondary Course then one shall have studied SSLC, Higher Secondary Course and the diploma through Tamil medium of instruction;

(iv) in cases, where a degree is prescribed as the educational qualification, one shall have studied SSLC, Higher Secondary Course and the degree through Tamil medium of instruction;

(v) in cases, where a post-graduate degree is prescribed as the educational qualification, one shall have studied SSLC, Higher Secondary Course, degree and the post- graduate degree through Tamil medium of instruction."

5. Accordingly, it permits only those who have completed the entire schooling as well as the prescribed qualification in Tamil medium to avail the benefit of PSTM reservation. In fact, the constitutional validity of the said amendment was also upheld by the Hon'ble Division Bench of this Court reported in **2021 4 MLJ 450** in the case of **G.Sakthi Rao Vs. Chief Secretary**.

6. The learned counsel for the petitioner would submit that all amendments should apply prospectively and not retrospectively. As far as the petitioner is concerned, she had completed her Under Graduate degree in Tamil medium from 2014-2018. Though she did her schooling in English medium, she had completed her Under Graduation in Tamil medium and also she was issued with PSTM certificate to avail 20% reservation. As per the Act, 2010, the definition of PSTM is that the persons who have obtained the educational



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qualification or qualifications prescribed for direct recruitment in the rules or regulations or orders applicable to any appointment in the services under the State through Tamil medium. Therefore, the person who obtained educational qualification in Tamil medium or qualification prescribed for direct recruitment is eligible for 20% reservation under PSTM. However, by the amendment, it is amended to the effect that the person who had studied through Tamil medium of instruction upto the educational qualification are prescribed for direct recruitment. It means even from schooling till the prescribed qualification the student had to study in Tamil medium. The said amendment does not mention any retrospective application of the Act and hence the benefit of the legislation should be given to those who have completed 2010-2010 in Tamil medium in respect of prescribed qualification.

7. A perusal of the notification issued by the second respondent dated 04.04.2022 in Notification No.10/2022 reveals that applications were invited from the eligible candidates through the on-line mode for the direct recruitment to the posts included in Combined Engineering Services with order of studies mentioned in para 4(b) Note (i) of Notification is as follows:-

“ The educational qualifications prescribed for these posts should have been obtained by passing the required qualification in the following order of studies viz. 10th



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+HSC/Diploma or its equivalent + U.G.Degree + P.G.Degree as required under Section 25 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016. The results of examination should have been declared on or before the date of Notification. [Section 20(4) (iv) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016]”

8. The petitioner had underwent her schooling in English medium and praying to consider the case under the category of PSTM. Without even challenging the said notification, the petitioner had filed this writ petition for a Mandamus. That apart, the Amendment Act No.35 of 2020 has been upheld by the Hon'ble Division Bench of this Court reported in **2021 4 MLJ 450** in the case of **G.Sakthi Rao Vs. Chief Secretary**, wherein it was held as follows:-

“42. For the reasons stated above the impugned notification is held as valid and this Court accepts the contention of the Petitioner that only those who completed their entire education right from schooling viz., from first standard upto SSLC, HSC, prescribed qualification either Degree, Diploma or Post Graduation, in Tamil medium alone are entitled to avail the benefit of 20% reservation quota. Therefore, the Writ Petition is allowed partly with the following directions:

(1). The impugned notification itself is as per the interpretation given by the petitioner in the prayer viz., to allow only the candidates those who have completed their entire education i.e., from 1st std to 10th std, then 12th std and thereafter, Degree or prescribed qualification only through Tamil Medium to avail PSTM quota and hence it is valid.

(2). The recruitment under the impugned notification is governed by this order.



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(3). There shall be a direction to the Respondents to give 20% PSTM reservation only to those who studied their entire education through out in Tamil medium viz., right from 1st standard upto prescribed qualification.

(4). 20% reservation for PSTM candidates shall be applied at every stage of recruitment.

(5). The PSTM Act 2010 and the amendment Act 2020 are constitutionally valid, as the act is to remove the disability sustained by the Tamil medium students due to education in Tamil medium viz., inability to get employment in Central Government as well as in other State Services, Private Sectors.”

9. Therefore, only those candidates who have completed their entire Schooling and degree or prescribed qualification in Tamil medium alone can avail PSTM quota. That apart, as per the notification issued by the second respondent dated 04.04.2022 inviting application for the direct recruitment to the posts included in Combined Engineering Services examination in Para 12(b) described about the person studied in Tamil medium is as follows:-

“12. GENERAL INFORMATION:

(B) Person Studied in Tamil Medium:-

(1) As per Section 2(d) of the Tamil Nadu Appointment on preferential basis in the services under the State of Persons Studied in Tamil Medium Act, 2010, amended by Act 35 of 2020, Person studied in Tamil medium means person who has studied through Tamil medium of instruction upto the educational qualification prescribed for direct recruitment in the rules or regulations or orders applicable to any appointment in the services under the State.



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(ii) *Candidates claiming to be Persons studied in Tamil Medium (PSTM) must upload the document at the time of submission of online application for the same in the form of SSLC, HSC, Transfer Certificate, Provisional Certificate Convocation Certificate, Degree Certificate, PG Degree Certificate, Mark Sheets Certificate from the Board or University or from the Institution, as the case may be, with a recording that he/she had studied the entire duration of the respective course(s) through Tamil Medium of instruction.*

(iii) *Candidates must upload documents at the time of submission of online application as evidence of having studied in the Tamil medium, all educational qualification upto the educational qualification prescribed.*

Example:

If the prescribed educational qualification is Post Diploma, then the candidate should have studied the First Standard to SSLC, HSC/ Diploma/ Degree and Post diploma as the case may be, through Tamil medium of instruction.

If the prescribed educational qualification is Degree, then the candidate should have studied from the First Standard to SSLC, Higher Secondary Course and Degree through Tamil Medium of instruction. (Refer para 14 (R) of Instructions to Applicants).

(iv) *If no such document as evidence for 'PSTM' is available, a certificate from the Principal/ Head Master / District Educational Officer / Chief Educational Officer/District Adi Dravidar Welfare Officer / Controller of Examinations/ Head / Director of Educational Institution/Director/Joint Director of Technical Education / Registrar of Universities, as the case may be, in the prescribed format must be uploaded at the time of submission of online application, for each and every educational qualification up to the educational qualification prescribed*

(v) *Failure to upload such documents at the time of submission of online application as evidence for 'Persons Studied in Tamil Medium for all educational qualification up to*



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the educational qualification prescribed, shall result in the rejection of candidature after due process.

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(vi) Documents uploaded at the time of submission of online application as proof of having studied in Tamil medium, for the partial duration of any course/private appearance at any examination, shall not be accepted and shall result in the rejection of candidature after due process.”

10. Therefore, the candidates who claim to be persons studying in Tamil Medium (PSTM) must upload the document at the time of submission of online application for the same in the form of SSLC, HSC, Transfer Certificate, Provisional Certificate Convocation Certificate, Degree Certificate, PG Degree Certificate, Mark Sheets Certificate from the Board or University or from the Institution, as the case may be, with a recording that he/she had studied the entire duration of the respective course(s) through Tamil Medium of instruction.

11. Therefore, the petitioner ought to have challenged the said rule, instead she had filed this writ petition for a direction. Further, once the candidate had agreed to the terms and conditions of notification by way of declaration and made application, the candidate could not challenge the terms and conditions prescribed in the notification.



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12. Therefore, the direction sought for in this writ petition cannot be considered and the writ petition is devoid of merits and is liable to be dismissed.

Accordingly, this writ petition stands dismissed. Consequently, connected Miscellaneous petition is closed. There shall be no order as to costs.

10.01.2024

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

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To

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2. The Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road, Park Town,
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