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W.P.No.16711 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2024

CORAM

THE HONOURABLE MR JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.16711 of 2020

and

W.M.P.Nos.20720, 20723 & 20725 of 2020

L.Kalaiselvi

.... Petitioner

Vs.

The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
Chennai 600 003.

.... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the DISTRIBUTION OF VACANCIES in so far as the SCHEDULED TRIBES (WOMEN) for the appointment to the post of TYPIST is concerned issued pursuant to the notification No.19/20219 dated 14.06.2019 and quash the same thereby direct the second respondent to earmark 9 posts of TYPIST for Scheduled Tribe (Women) and further direct the second respondent to select and appoint the petitioner with Registration Number 2707014236 as Typist in any one of the vacancies.

For Petitioner : Mr.A.R.Suresh
For Respondent: M/s.G.Hema
Standing Counsel



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ORDER

The present Writ Petition is filed praying for issuance of a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the DISTRIBUTION OF VACANCIES insofar as the SCHEDULED TRIBES (WOMEN) for the appointment to the post of TYPIST is concerned issued pursuant to the notification No.19/20219 dated 14.06.2019 and quash the same thereby, direct the respondent to earmark 9 posts of TYPIST for Scheduled Tribe (Women) and further direct the respondent to select and appoint the petitioner with Registration Number 2707014236 as Typist in any one of the vacancies.

2. At the outset, it is to be pointed out that The State of Tamil Nadu, Represented by its Secretary to Government, Personnel and Administrative Reforms Department, Fort St.George, Chennai 600 009, who was shown as R1, stood deleted vide order dated 08.11.2024 passed in W.M.P.No.2589 of 2021 and hence, The Secretary, Tamil Nadu Public Service Commission, Frazer Bridge Road, Chennai 600 003, remains as the sole respondent.



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3. The case of the petitioner is that, vide Notification dated 14.06.2019, the respondent/Tamil Nadu Public Service Commission initially sought to fill up 1901 posts of Typists including 50 carried forward vacancies under Tamil Nadu Ministerial Service, etc., apart from various others posts. In the notification, it was mentioned that the distribution of vacancies will be announced later and that the Rule of reservation of appointments applies to each post as per District/Zonal/Unit wise separately. The petitioner had applied for the post of Typist under the category 'Scheduled Tribe' and got 81st rank in the written examination. The posts of Typist was increased from 1901 to 2840 including the carried forward vacancies of 59 and thereby, the present vacancies for the post of Typist are 2781. The respondent/TNPSC had published the distribution of vacancies list in the Website, wherein, the posts earmarked for the Scheduled Tribe (ST) community was 34.

3.1 According to the petitioner, the total number of posts of TYPISTS notified and subsequently increased to 2840 including 59 carried forward vacancies which cannot be clubbed the number of posts should be 28 at the rate of 1%. But the respondent/TNPSC has notified 34 Posts reserving 15 posts for ST (General), 1 Post for ST (Women), 14 posts for ST (General) (PSTM), 3 posts for ST (Destitute Widow) (PSTM) and 1 Post for ST (Ex-Servicemen)



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(PSTM), in excess of the prescribed percentage of Reservation, but REDUCING the number of Posts to Women to only 1 Post instead of 9 Posts, which is against the Reservation Policy of the Government of Tamil Nadu, and also against Rule 21 of the Tamil Nadu State and Subordinate service Rules and in violation of the Notification itself and it would put the petitioner in a disadvantageous position. Hence, the petitioner has come forward with the present Writ Petition.

4. The learned counsel for the petitioner submitted that the total number of posts of Typist notified and subsequently increased to 2840 including 59 carried forward vacancies which cannot be clubbed and the number of posts should be 28 at the rate of 1%. But the respondent has notified 34 posts reserving 15 posts for ST (General), 1 Post for ST (Women), 14 posts for ST (General) (PSTM), 3 posts for ST (Destitute Widow) (PSTM) and 1 Post for ST (Ex-Servicemen) (PSTM), in excess of the prescribed percentage of Reservation, but REDUCING the number of posts to Women to only 1 Post instead of 9 Posts, which is against the Reservation Policy of the Government of Tamil Nadu, and also against Rule 21 of the Tamil Nadu State and Subordinate service Rules, the constitutional validity of the same has been upheld by the Hon'ble Division Bench of this Court in the case reported in 2009(4) Law



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weekly P.140, and in violation of the Notification itself.
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4.1. The learned counsel for the petitioner would further submit that for the post of Typist in vertical reservation, the total number of posts is 27 out of which 9 posts were reserved for horizontal reservation but in the case on hand, only 1 post was reserved for women under Scheduled Tribe category. Hence, the petitioner has come forward with the present Writ Petition.

5. A counter affidavit is filed on behalf of the respondent/TNPSC on 05.08.2021.

6. Ms.G.Hema, learned Standing Counsel appearing for the respondent/TNPSC submitted that the last selected candidate under ST(W) category had secured 220.5 marks, whereas, the petitioner had obtained only 172.5 marks under ST(W), which was not within the zone of consideration for the appointment of post of Typist under Scheduled Tribe category and she also referred to the counter affidavit, wherein, the relevant portion which reads as follows:

"5. Accordingly, as per section 27(a) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 "the unit of selection for appointment shall be 200, of which 36 shall be reserved for the SC including 6 offered to Arunthathiar



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on preferential basis amongst the SCs, 2 for ST, 53 for BC(OBCM), 7 for BCM, 40 for the MBC & DC and 62 shall be filled on the basis of merit" and the Government have fixed the turns in each rotation which are to be filled by the Horizontal reservation categories like Women, Destitute Widow, Ex-Servicemen and Differently abled. Therefore, for each Departmental Unit in the 200 point roster, the turns to be utilized for the current recruitment to the post of Typist will commence from the last turn that had been utilized for the previous recruitment to the post of Typist. As such the ST(W) category has been fixed as 50th Turn in 2nd, Fifth Rotation. The distribution of vacancies for the post of Typist for Scheduled Tribe category arrived are as follows:- ST (General)- 15, ST (Women) - 1, ST(General PSTM) - 14, ST(DW PSTM) - 3, ST(Ex-PSTM)-1 and hence the total vacancies for the post of Typist allotted to scheduled Tribe is 34."

6.1. The learned Standing Counsel would further submit that the entire selection process for the Notification of the year 2019 is already over and subsequent recruitment notification was issued for the year 2024, which was also completed by the respondent/TNPSC. Hence, the case of the petitioner cannot be considered at this juncture.

7. She would also submit that there is no age limit for SCHEDULED TRIBES (WOMEN) for applying to the post of Typist, as on date of filing the Writ Petition, the age of the petitioner is 29 years and now the petitioner is at the age of 33 years and she is eligible to apply for future recruitments as and when called for by the respondent/TNPSC.

8. Heard the learned counsel for the petitioner as well as the learned Standing Counsel for the respondent and also perused the materials available on



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9. In the case on hand, the notification for the above said post pertains to the year 2019. According to the petitioner, the total number of vacancies for Scheduled Tribe Community is 9, whereas only 1 post has been notified by the respondent. It is reported by the learned Standing counsel for the TNPSC that the selection process for the subject notification was already over and thereafter, subsequent notification was also issued in the year 2024 and the selection process is also completed by the respondent. Taking note of the same, this Court is of the view that the relief sought for by the petitioner cannot be entertained by this Court at this belated stage.

10. In view of the factual matrix of the case, the Writ Petition is dismissed. While dismissing the present Writ Petition, this Court direct the respondent/TNPSC to strictly follow the reservation policy as per the Constitution of India as well as the Rule 21 of the Tamil Nadu State and Subordinate Service Rules in respect of future recruitments without fail. No costs. Consequently, connected Miscellaneous Petitions are closed.

11.12.2024



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Index: Yes/No

Speaking/Non-speaking Order
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To
The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
Chennai 600 003.



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J.SATHYA NARAYANA PRASAD,J.,
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