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W.A.No.3447 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2024

CORAM

**THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN**

**Writ Appeal No.3447 of 2024
and C.M.P.No.26763 of 2024**

1.The Secretary
Tamil Nadu Public service commission,
TNPSC Road, VOC nagar, Park Town,
Chennai-600 003.

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

... Appellants

Vs.

1.Paranthaman

2.The Secretary to Government
Department of personnel and Administrative
Reforms(HRM), Fort St.George, Chennai-600 009.

.... Respondents

Writ Appeal under Clause 15 of the Letters Patent against the order dated
18.06.2024 in W.P.No.107 of 2022.

For Appellants : Ms.G.Hema, Standing Counsel
For Respondents : Mr.G.Sankaran, Senior Counsel
for M/s.S.Nedunchezhiyan - for R1
Mr.M.Alagu Gautham, Govt.Advocate-for R2



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J U D G M E N T
(Delivered by **R. SURESH KUMAR, J.**)

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This intra Court appeal has been filed against the order of the Writ Court dated 18.06.2024 in W.P.No.107 of 2022.

2. The short facts which are necessary to be noted for the disposal of this writ appeal are as follows:

The appellant Tamil Nadu Public Service Commission (hereinafter referred to as 'TNPSC') issued a notification in Notification No.23 of 2017 dated 14.11.2017 inviting applications from eligible candidates for the combined selection for various posts including the post of Typist. Since we are concerned only with the post of Typist, the facts pertaining to the said post alone is traversed in this judgment. The final vacancy position was 3973 posts, out of which Typist posts earmarked for the communal category SC-G(PSTM) viz., Scheduled Caste General (Persons Studied in Tamil Medium) is 62 vacancies.

3. In the overall ranking after completion of the competitive examination, the top most marks secured by a candidate was 268.50 marks. Insofar as the candidature of the writ petitioner / first respondent is concerned, he secured 201 marks. However, the fact remains that there are 67 candidates who secured the same 201 marks.



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4. Insofar as the candidature of the writ petitioner is concerned, his overall ranking is 6021, which according to the TNPSC comes within the zone of consideration for selection to the post of Typist under the category of SC-G(PSTM). Therefore, TNPSC issued a call letter to the writ petitioner for certificate verification, which was also over. At the time of certificate verification, the certificates which have already been uploaded were verified with its original. Insofar as the higher qualification secured by the writ petitioner is concerned viz., Post Graduate degree in Library Sciences (M.L.I.S), the same was not taken into consideration by the TNPSC for the simple reason that the said PG degree is of one year duration, whereas as per the Notification, the qualification pattern was 10+2+3+2 ie., after completion of 10th standard (S.S.L.C.), 12th standard (S.S.C) and UG degree of three years followed by PG degree of two years duration.

5. In view of the said position, where M.L.I.S., since has not been taken into consideration by the TNPSC, the writ petitioner was not able to get preference over other 67 candidates though he secured the same 201 marks.

6. In this context, the learned Standing Counsel for the appellant TNPSC relied upon the subsidiary Rules of Procedure, which *inter-alia* reads thus:

"A. In the case of competitive examinations comprising of written examination alone:



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(1)...

(2) *In case of two or more candidates scoring equal marks, the candidate possessing the higher qualification shall be placed above in the merit list.*

(3)....

(4)....

7. Relying upon this method of short listing of candidates in case of candidates who secure equal marks, the learned Standing Counsel for TNPSC submits that since 67 candidates secured same marks, naturally the short listing should be made only on the basis of Clause (2) as extracted herein above, whereby the candidates possessing higher qualification shall be placed higher in the merit list. When that Clause was invoked to verify the PG degree ie., higher qualification claimed by the writ petitioner, it was found that the PG Degree of M.L.I.S., was of one year duration. Therefore, as per the Notification since it must be 10+2+3+2 pattern alone, one year PG degree cannot be treated as equivalent to two years PG degree course, which was alone eligible to be considered. Hence, the M.L.I.S., qualification obtained by the writ petitioner was rejected.

8. Therefore, the writ petitioner was not selected. As against his non-selection, he approached the writ Court and filed W.P.No.107 of 2022, which was



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allowed by the learned Judge of the Writ Court through the impugned order dated 18.06.2024.

9. The learned Judge has considered two aspects of the issue. One is that, insofar as the rejection of M.L.I.S., degree is concerned, the Writ Court has taken great pain in discussing the matter at length by following some of the judgments and ultimately concluded that the 10+2+3+2 or 3 as given under the Notification or provisions of the Act viz., Tamil Nadu Government Servants (Conditions of Service) Act, cannot be taken as a basis for consideration of the higher qualification.

10. The learned Judge therefore had come to the conclusion that the M.L.I.S., degree of the petitioner ought to have been taken into account for the purpose of verifying the higher qualification of the candidate concerned to get the preference under Clause (2) of the Subsidiary Rules of Procedure.

11. That apart, the learned Judge also considered the aspect of non-consideration of the other PG degree viz., M.B.A., which was also possessed by the writ petitioner and in that regard, the learned Judge had made an observation simply stating that, that kind of closing of the website, which did not enable the candidate to upload more than one PG degree may not be justifiable. However, by mainly based on the conclusion that M.L.I.S degree ought to have



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been taken into account, the learned Judge allowed the writ petition by setting aside the rejection order of the TNPSC dated 12.11.2021 and had given a direction to select the writ petitioner and give appointment on or before 31.07.2024.

12. We have also heard the learned Standing Counsel for TNPSC, who would submit that prior to the disposal of the writ petition, selection was over and since the next candidate on merit had been selected, the question of considering the candidature of the writ petitioner does not arise even at that time. Therefore, such a direction given by the learned Judge through the impugned order since is not in consonance with law, the learned Standing Counsel seeks the indulgence of this Court in setting aside the impugned order.

13. Heard Mr.G.Sankaran, learned Senior Counsel appearing for the writ petitioner, who supported the order passed by the learned writ Court. He brought to the notice of this Court that, by a subsequent notification the TNPSC itself has come forward to rectify the mistake insofar as Clause(2) of the Subsidiary Rules of Procedure, whereby the higher qualification is not restricted to one qualification, it can be more than one qualification, that means, whatever the number of higher qualifications a candidate possesses, that can be uploaded one by one for the purpose of eliminating the candidates securing same marks in the examination.



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14. In this context, instead of going into the ground of validity of the PG degree of one year duration viz., M.L.I.S., degree as directed by the learned Judge, we prefer to go to the other ground and decide the same, that means, the ground where the candidate was prevented from uploading more higher qualification. In the case of the writ petitioner, the writ petitioner is not only possessing M.L.I.S., degree but also is possessing M.B.A. degree from Madras University. However, as per the system which has been made available to the candidates to upload the certificates, if one higher qualification is uploaded by the candidate, the system would not permit the candidates to upload more number of higher qualification certificates even though it is possessed by the candidates.

15. That is the reason why the writ petitioner, though had the higher qualification of MBA could not be permitted to upload the other higher qualification viz., MBA. Had the system been made available to allow the candidate to upload one or more higher qualification, certainly the writ petitioner would have uploaded the other higher qualification viz., MBA and had it been uploaded, certainly that MBA degree would have been taken as additional higher qualification. Thereby, in the elimination process the writ petitioner would have been placed higher than the others and he would have been selected.



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16. This kind of system being followed by the TNPSC by restricting the candidates from uploading more than one higher qualification certificate goes against the spirit of the elimination process especially Clause (2) of Instruction A of the Subsidiary Rules of Procedure. The elimination process makes it clear that the candidates who are more and more meritorious (or) best meritorious candidates alone are selected. Insofar as competitive examination is concerned, if more candidates secure same marks, it will be very difficult to select candidates and therefore, in order to avoid such confusion and to select more meritorious candidate, such a short listing procedure under the Subsidiary Rules of Practice has been made, where, under Clause (2) it says that in case of two or more candidates secure same marks, the candidate possessing higher qualification shall be placed above in the merit list. Therefore, the intention would have been that the candidate who is having higher qualification shall be placed in the top of the list to be considered as meritorious candidate than the other candidates, who are having lesser higher qualification, even though both of them have secured equal marks in the competitive examination conducted by the TNPSC.

17. When that being so, the intention or logic behind the present procedure of restricting the candidates from uploading more than one higher qualification in the website of TNPSC being illogical, certainly that will go against the very spirit of Clause (2) of Instruction A of the Rules of Procedure. This in



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fact has been realized and rectified in the subsequent notification by TNPSC which is also accepted by the learned Standing Counsel for TNPSC.

18. When that being so, the system under which the writ petitioner since has been prevented from uploading his higher qualification viz., MBA degree is not the mistake committed by the candidate, but it is the mistake of TNPSC, for which a more meritorious candidate cannot be denied the chance of getting selected for the post of Typist. Therefore, the writ petitioner is the more meritorious candidate having two PG degrees, as even if the M.L.I.S., is not taken into account, he also has a PG degree ie., MBA.

19. Hence, if not for the reasons that have been discussed and answered by the learned Judge through the impugned order, but for the reasons that we have discussed herein above, the writ petition filed by the writ petitioner ought to have been allowed. Resultantly, the conclusion reached by the learned Writ Court through the impugned order and allowing the writ petition by giving a direction to select the writ petitioner for the post of Typist cannot be found fault with and therefore, that conclusion of the order, which is impugned herein is concerned, does not warrant any interference. However, the writ petition has to be allowed only for the aforesaid reasons stated by us.



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20. At the same time, we also make it clear that the reasoning given in Para 15 of the order cannot be approved. Therefore, insofar as the said reasoning is concerned, as that is not purely reflecting the legal position, such observation and reasoning given by the learned Judge in Para 15 is hereby set aside. The direction given by the learned Writ Court in the impugned order, if not complied with so far, it shall be complied with within a period of eight weeks from the date of receipt of a copy of this order. All other directions given by the learned Writ Court shall stand unaltered.

21. Resultantly, this writ appeal fails and hence it is liable to be dismissed. Accordingly, it is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.K.,J.) (C.S.N.,J.)
03.12.2024

NCS : Yes/No
Index : Yes/No
KST

To

The Secretary to Government
Department of personnel and Administrative
Reforms(HRM), Fort St.George,
Chennai-600 009.



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AND
C.SARAVANAN, J.

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