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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.10.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.29206 of 2024
and WMP No.31894 of 2024

1. N.Mahendran
2. Balamurugan
3. Shunmugavel T
4. V.Govindasamy
5. G.Sarath babu
6. M.Sivachandran
7. P.Kingston
8. M.Paramasivan
9. Sasikumar R
10. R.Sivashanmugamoorthy
- 11.Muthukkumaran P
12. Bharathiraja S



13. Ilangovan L
14. P.Manickam
15. Senthil P.S.
16. C.Mariappan
17. Mathan G
18. M.Saravanan
19. Bakkiaraj M
20. Arul Karuppanan M
21. Nithin V
22. K.Suresh
23. Edwin Annaraj
24. S.Sankar
25. S.Selvam
26. K.Kottaisamy
27. Kaliraj K
28. S.Loganathan
29. Sivasankar R



30. Manikandan T

..Petitioners

Vs.

1. The State of Tamil nadu,
Represented by its Secretary to Government,
Human Resource and Management Department,
Secretariat, Chennai 600 009.

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

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 2nd respondent to forward the provisionally selected petitioners under 5% ex-serviceman category in Notification No.3/2022 dated 23.02.2022 to the 1st respondent and consequently, direct the 1st respondent to issue appointment order to the petitioners.

For Petitioner : Mr.K.V.Sajeev Kumar

For Respondents : Mr.K.Tamilvendan
Government Advocate for R1
Mrs.G.Hema
Standing Counsel for R2



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ORDER

This writ petition has been filed for issue of writ of mandamus directing the 2nd respondent viz., the TNPSC to forward the provisionally selected petitioners under 5% Ex-serviceman category under notification dated 23.02.2022 to the 1st respondent and consequently, direct the 1st respondent to issue appointment orders to the petitioners.

2. Heard Mr.K.V.Sajeev Kumar, learned counsel for petitioner and Mr.K.Tamilvendan, learned Government Advocate for 1st respondent and Mrs.G.Hema, learned Standing Counsel for 2nd respondent.

3. The issue that is involved in the present writ petition is squarely covered by the earlier order passed by this Court in WP No.25211 of 2024 dated 11.09.2024. The relevant portions of the order is extracted hereunder :-

2.When the matter came up for hearing on 03.09.2024, the learned counsel for the petitioners submitted that the case of the petitioners will not come under the pending batch of cases and



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hence, the pendency of those writ petitions will not come in the way of the petitioners being considered for appointment, since they have all been selected and their names have also been included in the provisional selection list issued by the 2nd respondent.

3. In the light of the above submission, this Court directed the learned Standing Counsel for the 2nd respondent to take written instructions from the 2nd respondent and the matter was directed to be posted for hearing today.

4. When the case was taken up for hearing today, the learned Standing Counsel for the 2nd respondent filed the Position Note. The relevant portions are extracted hereunder:

4. In the circumstances, the Hon'ble High Court of Madras has passed common interim orders dated 15.05.2024 in the above said Writ Petition which is as follows:

".... 2. There shall be an order of interim stay still then....."

5. As per section 3(j) of TNGS (COS) Act, 2016, the Commission has announced in the Notification for the post of



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*Combined Civil Services Examination-II (Group-IIA services)
(Non-Interview Posts) (Notification No. 03/2022, dated
23.02.2022) as follows: -*

"Provided that in all cases, an ex-serviceman once recruited to a post in any service or class or category, cannot claim the concession of being called an ex-serviceman for further recruitment".

6. Hence, it is stated that the stay granted by the honourable court operates only as against the candidates who have secured, job under group IV and thereafter the same candidates who got selected when the results were published for group II & IIA Services and further claimed redressal under section 3(r), The Petitioners herein does not fall neither under 3(?) nor under any category, other than 3(1) as all these candidates have, appeared only under Group II & IIA Services. That apart, all these candidates considered for provisional selection subject to vacating of interim stay in W.P.No.13550/24 only upon getting a declaration that they have not obtained any selection or service earlier. Hence, it is stated that the stay granted by the honourable court operates only as against the candidates who have secured, job under group IV and thereafter



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the same candidates who got selected when the results were published for group II & IIA and further claimed redressal under section 3(r). The Petitioners herein does not fall neither under 3(r) nor under any category, other than 3(j) as all these candidates have, appeared only under Group II & IIA Services. That apart, all these candidates considered for provisional selection subject to vacating of interim stay in W.P.No. 13550/24 only upon getting a declaration that they have not obtained any selection or service earlier.

5.Heard the learned counsel for the petitioners and the learned counsel appearing on behalf of the respondents.

6.It is quite clear from the Position Note that the petitioners fall under Section 3(j) of the TNGS (COS) Act, 2016 and these petitioners have appeared only under Group II and IIA services. The dispute that is pending in a batch of writ petitions pertains to the conditions imposed under Section 3(r) of the TNGS (COS) Act, 2016. The names of all these petitioners have already been included in the provisional selection list and hence, the claim made by the petitioners can be separately dealt with by the Government after getting declaration from each of the petitioners.



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7. In the light of the above discussion, there shall be a direction to the 2nd respondent to forward the list of the petitioners who have already been provisionally selected to the 1st respondent in order to enable the 1st respondent to issue the appointment orders to the petitioners after getting the necessary declaration from each of the petitioners.

4. In view of the above, there shall be a direction to the 2nd respondent to forward the list of the petitioners who have already been provisionally selected to the 1st respondent in order to enable the 1st respondent to issue the appointment orders to the petitioners after getting the necessary declaration from each of the petitioners.

5. This writ petition is disposed of in the above terms. No costs. Consequently, the connected miscellaneous petition is closed.

14.10.2024

Internet : Yes/No
Index : Yes/No
Speaking Order / Non Speaking Order
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N. ANAND VENKATESH, J.

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To

1. The State of Tamil nadu,
Represented by its Secretary to Government,
Human Resource and Management Department,
Secretariat, Chennai 600 009.
2. The Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road, Broadway,
Chennai 600 003

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