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Writ Petition No.28347 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.28347 of 2024

1.R.Sankar
S/o.Renganathan

2.T.Jeya Prakash
C/o.Thirumalai Andar

... Petitioners

Vs.

1.The State of Tamil Nadu
represented by its
Secretary to Government,
Human Resources Management Department,
Fort St.George, Chennai - 600 009.

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

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the second respondent to forward the provisionally selected petitioners under 5% Ex-serviceman category in Notification No.3/2022 dated 23/2/2022 to the first respondent and consequently, direct the first respondent to issue appointment order to the petitioners.



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Writ Petition No.28347 of 2024

For Petitioners : Mr.V.Janarthanan

For Respondents : Mr.V.P.R.Elamparithi
Additional Government Pleader [R1]
Mrs.G.Hema,
Standing Counsel [R2]

ORDER

This writ petition has been filed seeking issuance of a writ of mandamus directing the second respondent to forward the provisionally selected petitioners under 5% Ex-serviceman category in Notification No.3/2022 dated 23/2/2022 to the first respondent and consequently, direct the first respondent to issue appointment order to the petitioners.

2. Heard Mr.V.Janarthanan, learned counsel for petitioners, Mr.V.P.R.Elamparithi, learned Additional Government Pleader appearing for first respondent and Mrs.G.Hema, learned Standing Counsel appearing for second respondent.

3. When the matter came up for hearing on 27.09.2024, this Court passed the following order:

"Mr.V.P.R.Elamparithi, learned Additional Government Pleader takes notice for 1st respondent.



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2.Ms.G.Hema, learned Standing Counsel takes notice for 2nd respondent.

3.The specific case of the petitioner is that this case also falls under the same issue that was dealt with in W.P.No.25211 of 2024 dated 11.09.2024 and therefore, it is contended that this case is covered by the earlier order.

4.The learned Standing Counsel for 2nd respondent shall get a position note / written instructions in this regard.

5.Post this case at the end of the motion list on 03.10.2024."

4. The matter was listed for hearing today. Learned Standing Counsel appearing on behalf of second respondent submitted that the case of petitioners also is similar to one which was decided by this Court in W.P.Nos.25211 & 25744 of 2024, dated 11.09.2024. However, it was contended that the petitioners herein had filed impleading petition in the connected writ petition. Therefore, unless the said impleading petition is withdrawn or not pressed, the petitioners cannot be permitted to prosecute this writ petition.

5. Learned counsel for petitioners submitted that the impleading petition filed by them in W.M.P.No.26580 of 2024 has not been entertained and that the petitioners will not press the impleading



petition filed by them.

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6. In the light of the specific undertaking given by the petitioners, this writ petition can also be disposed of in the light of the order passed in W.P.Nos.25211 & 25744 of 2024, dated 11.09.2024. The relevant portions are 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 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 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-



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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 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



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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.

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."

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

This writ petition is disposed of with the above direction. No costs.

03.10.2024

Neutral Citation: Yes/No

Index: yes/no

Speaking Order/Non-Speaking Order

gm



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To

- 1.The Secretary to Government,
Human Resources Management Department,
Fort St.George, Chennai - 600 009.
- 2.The Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road, Broadway,
VOC Nagar, Park Town,
Chennai - 600 003.



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N.ANAND VENKATESH, J

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