



Writ Petition No.29287 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.29287 of 2024

and

W.M.P.Nos.31934 & 31935 of 2024

K.Swedhan

S/o.R.Krishnasamy

... Petitioner

Vs.

1.Tamil Nadu Public Service Commission,
represented by the Deputy Secretary,
TNPSC Road, VOC Nagar,
Park Town, Chennai - 3.

2.The Government of Tamil Nadu,
represented by its
Principal Secretary to Government,
Finance Department,
Secretariat, Chennai - 600 009.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned Memorandum No.271/PSD-A2/2022 dated 30.08.2024 passed by the first respondent, quash the same and consequently, direct the respondents to appoint the petitioner in the post of Junior Co-operative Auditor as per the Rank List published by considering the petitioner's representation dated 02.09.2024.



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For Petitioner : Mr.N.Manokaran

For Respondents : Mr.P.J.Rishikesh
Standing Counsel [R1]
Mr.U.Baranidharan
Additional Government Pleader [R2]

ORDER

This writ petition has been filed challenging the impugned memorandum dated 30.08.2024 and for a consequential direction to the respondents to appoint the petitioner in the post of Junior Co-operative Auditor.

2. Heard Mr.N.Manokaran, learned counsel for petitioner, Mr.P.J.Rishikesh, learned Standing Counsel appearing for first respondent and Mr.U.Baranidharan, learned Additional Government Pleader appearing for second respondent.

3. The Tamil Nadu Public Service Commission issued a notification dated 23.02.2022 for filling up various posts under Group-II and Group-IIA services. One such post was the post of Junior Cooperative Auditor, which was classified as non-interview post. The petitioner submitted his application and he also attended the examination.



During the counselling, the petitioner was informed that he did not possess the required qualification as per the notification. This is on the ground that the petitioner did not obtain an equivalence certificate since the petitioner had obtained B.Com (Foreign Trade) degree from PSG college affiliated to Bharathiyar University.

4. The petitioner filed W.P.No.14620 of 2024 and this writ petition was disposed of by order dated 15.07.2024. The relevant portions in the order are extracted hereunder:

"5. On perusal of the impugned order revealed that the petitioner failed to produce prescribed qualification or produce equivalence government order as per the notification. The notification is as follows:-

"The Government orders relating to equivalence of qualification are available on the Tamil Nadu Public Service Commencement's website. However, if the applicant possesses an equivalence of qualification other than one mentioned in the Commission's website and if Government orders to this effect have been issued on or before the date of this notification, applicants should furnish the details of the same while applying and should produce a copy of the Government orders, when called for by the Tamil Nadu Public Service Commission, failing which their application will be rejected after due process. The Government orders regarding equivalence of qualification issued after the date of this notification will not be considered for this recruitment."

6. In view of the above facts and circumstances, the petitioner is at liberty to obtain equivalence government order as that of B.Com. (Foreign Trade) is equivalent to B.Com. degree



and produce the same before the first respondent within a period of two weeks from the date of receipt of a copy of this order. The first respondent is directed to keep one post of Junior Co-operative Auditor as vacant till then. On receipt of the equivalence government order, if the petitioner is otherwise qualified, the second respondent is directed to appoint the petitioner in the post of Junior Co-operative Auditor in accordance with law."

5. It is quite clear from the above order that the TNPSC was directed to keep one post of Junior Co-operative Auditor vacant and on receipt of the equivalence Government Order, a positive direction was issued to TNPSC to appoint the petitioner in the post of Junior Co-operative Auditor, if he is otherwise qualified.

6. The grievance of the petitioner is that in spite of the equivalence Government Order issued in his favour, the first respondent has proceeded to reject the candidature of the petitioner on the ground that it has been issued beyond the date of notification. Aggrieved by the same, the present writ petition has been filed seeking for the appropriate relief.

7. A similar case came up before this Court in W.P.No.28484 of 2024 where this Court found that in spite of the positive direction



issued by this Court, the TNPSC has rejected the candidature. In view of

the same, the writ petition was allowed in the following terms:

"6. In the considered view of this Court, the impugned order passed by the 1st respondent on the face of it is illegal. This order, goes against the positive direction that was issued by this Court in the earlier order dated 02.09.2024. This Court had directed one post of Junior Co-operative Auditor to be kept vacant. Therefore, there is no question of rejecting the candidature on the ground that no vacancy is available. This stand taken by the 1st respondent may not be sustainable in the light of the vacancy position that has been placed before this Court as on 15.07.2024.

7. The next ground on which the candidature has been rejected is that the equivalence Government Order has been produced after the date of notification. This reasoning is also unsustainable in view of the fact that this Court had given positive directions to appoint the petitioner to the post of Junior Co-operative Auditor, if he is otherwise qualified and based on the equivalence Government Order that was submitted by the petitioner. Hence, it does not lie in the mouth of the 1st respondent to deny the candidature contrary to the positive directions issued by this Court.

8. When the matter was taken up for hearing, the learned Standing counsel for TNPSC submitted that a writ appeal has been filed against the order passed by the learned Single Judge and it is in the SR stage.

9. In the considered view of this Court, the order passed by the learned Single Judge is in force as on today. Hence, the same has to be necessarily acted upon. This Court had directed the 2nd respondent to appoint the petitioner in the post of Junior Co-operative Auditor, if he is otherwise qualified. Therefore, the 1st respondent has to necessarily add the name of the petitioner in the selection list and place it before the 2nd respondent and the 2nd respondent will have to pass appropriate orders appointing the petitioner in the post of Junior Co-operative Auditor. This process shall be completed by the 1st respondent within a period of two weeks from the date of receipt of a copy of this order. The 2nd



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respondent shall act upon the same and shall consider the candidature of the petitioner along with the other persons whose names have already been recommended by TNPSC."

8. This is the second case where this Court finds that the TNPSC in spite of the positive direction issued by this Court defies the said order and passes an order contrary to the said positive direction issued by this Court. This attitude on the part of the TNPSC is not appreciated.

9. In the considered view of this Court, the order passed by this Court has to be necessarily acted upon. This Court had directed the first respondent to appoint the petitioner in the post of Junior Co-operative Auditor, if he is otherwise qualified. Therefore, the first respondent has to necessarily add the name of the petitioner in the selection list and place it before the second respondent and the second respondent will have to pass appropriate orders appointing the petitioner in the post of Junior Co-operative Auditor. This process shall be completed by the first respondent within a period of two (2) weeks from the date of receipt of a copy of this order. The second respondent shall act upon the same and shall consider the candidature of the petitioner along with the other persons whose



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names have already been recommended by TNPSC.

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In the light of the above discussion, this Writ Petition is allowed with the above directions. No costs. Consequently, the connected miscellaneous petitions are closed.

01.10.2024

Neutral Citation: Yes/No

Index: yes/no

Speaking Order/Non-Speaking Order
gm

To

1.The the Deputy Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road, VOC Nagar,
Park Town, Chennai - 3.

2.The Principal Secretary to Government,
Government of Tamil Nadu,
Finance Department,
Secretariat, Chennai - 600 009.

N.ANAND VENKATESH, J



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