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Writ Petition No.28484 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.28484 of 2024
and WMP No.31059 and 31060 of 2024

D.Gokul Prasath

... Petitioner

Vs.

1.The Tamil Nadu Public Service Commission,
Rep. By the Secretary,
TNPSC Road, V.O.C.Nagar,
Park Town, Chennai - 3

2. The Government of Tamil Nadu,
Rep. 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 to call for the records relating to the impugned Memorandum No. 271/ PSD- A2/ 2022 dated 30.08.2024 passed by the 1st Respondent, quash the same and consequently direct the respondents to appoint petitioner in the post of junior Co- Operative Auditor as per the Rank List Published by Considering petitioner representation dated 01.09.2024.

For Petitioner : Mr.N.Manoharan

For Respondents : Mrs.G.Hema

Standing counsel for R1



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Mr.U.Bharanidharan
Additional Government Pleader for R2

ORDER

This writ petition has been filed challenging the impugned proceedings of the 1st respondent dated 30.08.2024 and for a consequential direction to the respondent to appoint the petitioner in the post of Junior Co-operative Auditor as per the rank list published by considering the representation made by the petitioner on 01.09.2024.

2. Heard Mr.N.Manoharan, learned counsel for the petitioner and Mrs.G.Hema, learned Standing counsel for 1st respondent and Mr.U.Bharanidharan, learned Additional Government Pleader for 2nd respondent.

3. The petitioner earlier approached this Court by filing WP No.16748 of 2024, challenging the rejection of his candidature by the TNPSC through order dated 26.06.2024 on the ground that the petitioner did not possess the prescribed qualification and he did not produce the



equivalence Government Order. The above writ petition was disposed of by this Court by an order dated 15.07.2024 and the operative portion of the order is 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



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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. (Financial System) 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.*

4. After the above order was passed, the matter was listed under the caption “for being mentioned” on 02.09.2024 and this Court clarified the earlier order in the following terms :-

This matter is posted today before this Court under the



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caption 'For Being Mentioned' at the instance of the learned counsel appearing for the petitioner.

2. The learned counsel appearing for the petitioner submitted that there is some clarification in Paragraph No.6 of the order dated 15.07.2024 in W.P.No.16748 of 2024. Hence, he prayed for suitable directions.

3. Considering the submission made by the learned counsel appearing for the petitioner, the Paragraph No.6 of the order dated 15.07.2024 in W.P.No.16748 of 2024 shall read as follows:-

“6. In view of the above facts and circumstances, the petitioner is at liberty to obtain equivalence government order as that of B.Com. (Financial System) 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,



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the Government is directed to appoint the petitioner in the post of Junior Co-operative Auditor in accordance with law.”

4. Registry is directed to correct the order dated 15.07.2024 in W.P.No.16748 of 2024, as above and issue order copy afresh.

5. Pursuant to the above order, the impugned proceedings came to be issued by the 1st respondent dated 30.08.2024, rejecting the candidature of the petitioner on the ground that there are no vacancies in the post of Junior Co-operative Auditor and that the petitioner had produced the equivalence Government Order beyond the date of notification. Aggrieved by the same, the present writ petition has been filed before this Court.

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



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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 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.

10. In the result, this writ petition is allowed with the above directions. No costs. Consequently, the connected miscellaneous petitions are closed.

30.09.2024

Neutral Citation: Yes/No

Index: yes/no

Speaking Order/Non-Speaking Order

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To

1.The Tamil Nadu Public Service Commission,



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