



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.29437 of 2024
and W.M.P.No.32076 of 2024

A.Ilayaraja

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Higher Education Department,
Fort St. George,
Chennai – 600 009.

2.Tamil Nadu Public Service Commission,
Rep. by its Member Secretary,
TNPSC Road, Broadway,
Chennai – 600 003.

3.The Government Polytechnic College,
Rep. by its Principal,
Thoothukudi.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration, to declare that the petitioner is eligible to be appointed as Junior Draughting Officer in the category of PSTM pursuant to the recruitment notification No.05/2023 in Advertisement No.651 dated 03.02.2023.

For Petitioner : Ms.N.Kavitha Rameshwar



For Respondents : Mr.K.Surendran
Additional Government Pleader
for R1 and R3

Mr.P.J.Rishikesh
Standing Counsel for R2

ORDER

This writ petition has been filed for the issue of writ of declaration to declare that the petitioner is eligible to be appointed as Junior Draughting Officer in the PSTM category pursuant to the recruitment notification dated 03.02.2023 issued by the 2nd respondent.

2.The case of the petitioner is that the petitioner had completed his SSLC, HSC, B.E., and M.E., through Tamil medium and that the 2nd respondent had issued the recruitment notification dated 03.02.2023, calling for applications for appointment to the post of Junior Draughting Officer and that the petitioner submitted his application under the PSTM category and that the 2nd respondent published the list of candidates who were selected for physical Certificate Verification and Counseling wherein, the name of the petitioner was not found



and the petitioner was not considered for selection under the PSTM category and consequently, the candidature was rejected, since the petitioner did not come within the zone of consideration under the General Category. It is under these circumstances, the present writ petition came to be filed before this Court.

3. When the matter came up for hearing on 03.10.2024, this Court passed the following order:

The issue involved in the present writ petition is squarely covered by the earlier order passed by this Court in W.P.Nos.16169 and 19493 of 2024, dated 29.08.2024.

2. In the case in hand, the petitioner has completed SSLC, HSC, B.E., and M.E., through Tamil medium. The petitioner completed the diploma course and was a lateral entrant into B.E., course. Since the petitioner did not complete the diploma course in Tamil medium, the candidature of the petitioner is not being considered. This very issue has been dealt with in the above writ petitions and therefore, the petitioner will also be entitled for the very same relief.



WEB COPY

3.The learned counsel for the 2nd respondent seeks for time to take written instructions. Post this case at the end of the motion list on 14.10.2024. In the meantime, one post of Junior Draughting Officer shall be kept vacant and shall not be filled up.

4.When the matter was taken up for hearing today, the learned Standing Counsel appearing on behalf of the 2nd respondent filed the position note of the TNPSC and the relevant portions are extracted hereunder:

4.It is submitted that in the above circumstances, the candidate has claimed PSTM and uploaded PSTM Certificates for standard 1-12 and UG Degree B.E.Civil Engineering (3 years). It is ascertained from the application of the candidate is evident that the candidate has acquired his B.E. Civil Engineering after completion of his Diploma and thereby he has entered B.E.course through lateral entry in Civil Engineering (2nd Year) After completing diploma, the candidate has studied UG Degree (B.E. Civil Engineering) (3 Years) under lateral entry only. Based on the Diploma qualification the Petitioner had directly joined 2nd year B.E degree course through lateral entry. The duration of the Petitioner's B.E degree is from 2012



WEB COPY

to 2015. The said B.E. degree is only valid while considering the Diploma qualification. The petitioner had not claimed diploma in Civil Engineering in his online application and has only claimed 10+2+3 (Degree in B.E.)

5. It is humbly submitted that in the present case the recruitment Notification categorically in Para 13 (1) and (L) reads as follows:

13 (I) Evidence for all the claims made in the online application should be uploaded at the time of submission of online application. Any subsequent claim made after submission of online application will not be entertained. Failure to upload the documents at the time of submission of online application will entail rejection of application after due process.

13 (L) Incomplete applications and applications containing wrong claims or incorrect particulars relating to category of reservation / eligibility / age / gender / communal category / educational qualification / medium of instruction/physical qualification/other basic qualification and other basic eligibility criteria will be summarily



WEB COPY

rejected after due process.

6) Moreover, as per the Letter No. 19814/Y3/2019 dated 06.06.2019 of the Chairman Board of Examinations, Tamil Nadu / The Director of Technical Education, Directorate of Technical Education, Chennai-600 025, It has been stated that the Medium of Instruction for all the Diploma Courses (including Diploma in Civil Engineering) awarded by the State Board of Technical Education and Training is in English only.

7) It is submitted that 2960 candidates were provisionally admitted for OCV for the posts included in Combined Engineering Subordinate Service Examination (other than JDO, Highways Department) (Notification No. 05/2023 dated 03.02.2023) in the ratio of 1:3. The petitioner candidate Thiru. A. Ilaiyaraja (Register No. 2601005129) was one among the candidate for this recruitment, his mark 227.50 and rank position 9464 and he belongs to SC_G_PSTM category and he was provisionally admitted for OCV, during OCV candidature of the said petitioner candidate was changed from PSTM to Non-PSTM due to the petitioner had not claimed diploma in Civil Engineering in his online application and has only claimed 10+2+3 (Degree in B.E.).



WEB COPY

8. *It is submitted that, the petitioner had been treated under Non PSTM for further selection process as opposed to his claim as PSTM in his application and he has not reached for the zone of consideration for PCV cum Counselling for the said recruitment.*

5. Heard Ms.N.Kavitha Rameshwar, learned counsel appearing on behalf of the petitioner, Mr.K.Surendran, learned Additional Government Pleader appearing on behalf of respondents 1 and 3 and Mr.P.J.Rishikesh, learned Standing Counsel appearing on behalf of the 2nd respondent.

6. The learned counsel for the petitioner submitted that the petitioner has fulfilled all the requirements to be considered for appointment under the PSTM category and that the claim made by the petitioner is covered by the earlier order passed by this Court in W.P.Nos.16169 and 19493 of 2024, dated 29.08.2024.

7. Per contra, the learned Standing Counsel appearing for the 2nd respondent and the learned Government Advocate appearing on behalf of the 1st and 3rd respondents submitted that the petitioner had completed B.E., degree



only after completing the Diploma in Civil Engineering and therefore, the petitioner ought to have completed even Diploma in Civil Engineering only in Tamil medium. In the absence of the same, it cannot be held that the petitioner had completed all the qualifications in Tamil medium right through. Since the petitioner did not qualify himself to be considered under the PSTM category, the candidature of the petitioner was considered under the Non-PSTM category and the petitioner did not reach the zone of consideration. In view of the same, the petitioner was not called for Certificate Verification and Counseling. Accordingly, they sought for the dismissal of this writ petition.

8. The issue involved in the present writ petition is squarely covered by the earlier order passed by this Court on the very same facts in W.P.Nos.16169 and 19493 of 2024, dated 29.08.2024. The relevant portions are extracted hereunder:

21. The short issue that arises for consideration in these writ petitions is as to whether the petitioners will be ineligible to be considered under the PSTM category on the ground that they were not able to produce a PSTM certificate for the diploma course and on the ground that the medium of instruction for the diploma course was in English as per the



WEB COPY

instructions given by the concerned colleges and the proceedings of the Commissioner of Directorate of Technical Education.

22. To start with, it is important to understand the objective behind the enactment to provide for appointment on preferential basis in the services for persons, who have studied in Tamil medium. The objective is that for persons, who have studied Tamil medium, they have very little chance of getting selected in the employment of Central Government, other State Governments or in private sectors. Therefore, there was a need for giving preference to those persons, who have studied through Tamil medium, in State Government services. With this avowed object, the Act was brought into force through Act No.40 of 2010.

*23. There was a subsequent amendment that was carried out in Act 35 of 2020, which came into force on 07.12.2020. The scope of both enactments was dealt with by the Division Bench order in **W.P.(MD) No.8025 of 2020, dated 22.03.2021**, referred supra. The relevant portions that were relied upon by learned Standing Counsel for Tamil Nadu Public Service Commission have also been extracted.*



WEB COPY

24. *It is necessary to take note of the actual grievance that was considered by the Division Bench. For this purpose, paragraph No.5 of the order is extracted hereunder:*

"5. The petitioner had his entire schooling in Tamil Medium upto Plus Two. He completed B.Com, then M.Com in Tamil Medium and thereafter, completed his Law Degree through Tamil Medium. The petitioner applied for TNPSC Group I Services pursuant to 3rd respondent's notification dated 20.01.2020 calling for applications for CCS I examination (Group I services) for vacancy of 69 posts. The grievance of the petitioner is that the candidates who had not done their schooling in Tamil Medium are getting benefited by 20% quota under PSTM Act by obtaining only the higher degree prescribed for the post in Tamil Medium. Excepting the Higher Degree prescribed as qualification for the post, most of them studied in English Medium and only to get the benefit under PSTM quota, they acquire the prescribed qualification in Tamil Medium superficially through distance education. According to him, persons who are entitled to reservation are only those who have studied in Tamil Medium right from I standard to Plus Two and thereafter, the other degrees. To put it in a nutshell, candidates should have studied throughout in Tamil Medium right from schooling till acquiring the prescribed higher qualification. The very object of the Act is being frustrated by the respondents by adopting a fraudulent method of giving reservation to those who have studied higher qualification prescribed for the post alone in Tamil Medium ignoring the fact that they studied throughout in English Medium."

25. *The Division Bench dealt with a scenario where many*



WEB COPY

started claiming for PSTM quota by superficially undergoing Tamil medium at the degree level or merely writing examinations in Tamil. Thereby, an attempt was made to frustrate the very object of the Act. In order to deal with such a situation, the Division Bench had gone into the scope of this Act in detail.

26. The Division Bench has categorically held that for a person to claim PSTM category, he must have completed his entire education in Tamil medium up to the prescribed qualification viz., I standard upto SSLC, HSC, Degree or Diploma or Post Graduation Degree. It was made clear that the candidates who artificially try to comply with the provisions by obtaining the prescribed qualification alone in Tamil medium were held to be not entitled for claiming the benefit of the quota.

27. A careful reading of the observations made by the Division Bench makes it abundantly clear that a candidate must have completed his entire education in Tamil upto the degree, which is prescribed as a qualification for selection.

28. This Court has to next venture into the scope of the



WEB COPY

term "persons studied in Tamil medium". The Division Bench itself had dealt with the scope of Section 2(d) of the Act 35 of 2020 at paragraph No.35 of the judgment. While dealing with it, the Division Bench has held that a person must complete his education in Tamil medium upto the prescribed qualification.

29. In the case in hand, the qualification that has been prescribed under the notification is that the candidate must have completed B.E. degree in civil engineering. The petitioners are lateral entrants into the B.E. degree after completing their diploma course. What is prescribed as a qualification in the notification is only a degree and not diploma. Therefore, it must be seen as to whether the petitioners, who do not possess a PSTM certificate for the diploma course to prove that they underwent the course in Tamil medium, can be accommodated within the scope of explanation (iv) to Section 2(d) of the Act 35 of 2020.

30. The explanation to Section 2(d) of the Act 35 of 2020 considers each scenario separately. If the educational qualification prescribed is SSLC, one should have studied upto SSLC through Tamil medium. Similarly, where the educational qualification is HSC, one should have studied up to SSLC and



WEB COPY

HSC in Tamil medium. If the educational qualification is a diploma, one should have studied in Tamil medium up to SSLC and the Diploma must also be through Tamil medium of instruction. If the Diploma is obtained after the completion of HSC, one should have studied right through SSLC in Tamil medium and HSC in Tamil medium and Diploma also in Tamil medium. Further, explanation (iv) states that in cases where the degree is prescribed as the qualification, one should have studied SSLC, HSC and Degree through Tamil medium of instruction. Finally, explanation (v) states that in cases where a Post Graduate Degree is prescribed as qualification, one should have studied SSLC, HSC, Degree and Post Graduation through Tamil medium of instruction.

31. It is pellucid from the explanation that the object behind the Act is sought to be achieved by insisting the candidate to study in Tamil medium throughout upto the educational qualification that is prescribed in a recruitment notification. The practice that was deprecated by the Division Bench are cases where a person superficially undergoes Tamil medium with reference to essential qualification alone and whereas all his education till then was not in Tamil medium. Such practice was held to be against the object of the Act and



WEB COPY

those persons were held not to be entitled to be considered within PSTM category.

32. The language that has been used under the explanation to Section 2(d) of the Act 35 of 2020 is plain and clear. In explanation (iv), it is specifically stated that in cases where a degree is prescribed as an educational qualification, one should have studied up to SSLC, HSC and the Degree through Tamil medium of instruction. The petitioners made a lateral entry to B.E. degree after completing diploma. In such a scenario, if the Legislature insisted that such diploma must also carry a PSTM certificate, it would have been specifically mentioned in explanation (iv).

33. While interpreting a beneficial legislation, the Court must merely go by the language that has been used by the Legislature and the Court must be aware that the Legislature had the knowledge of the prevailing scenario. The Court is expected to give a purposive interpretation and the Court should not add or modify something into the plain language used by the Legislature. By doing so, this Court will only be causing violence both to the intent and language of the Legislature.



WEB COPY

34. *The recruiting agency while providing for the quota under the PSTM category is also bound by the provisions of the Act. They cannot try to interpret the same differently except to understand it in the manner it has been specifically provided under the Act.*

35. *In the case in hand, there is no dispute with regard to the fact that the petitioners have undergone education only in Tamil medium from I to X standard and also in the HSC. There is also no dispute with regard to the fact that the petitioners had undergone B.E. degree in Tamil medium. The PSTM certificates that have been placed before this Court proves the said fact. On carefully going through the circular dated 14.08.2024 of the Commissioner of Department of Technical Education, it is seen that there was no scope for Tamil medium till 2022-2023 for those who undergo the diploma. In view of the same, the institutions have taken a stand that the diploma was not taught to the students in Tamil medium.*

36. *Apart from the plain reading of explanation (iv), this Court must also see whether the petitioners have satisfied the object of the Act. The object of the Act is that the candidate must*



WEB COPY

have studied in Tamil medium throughout and the candidate will not be allowed to superficially fulfill the requirement by only undergoing the essential qualification in Tamil medium. That is not the case in hand and the petitioners have certainly gone through their entire education only in Tamil medium.

37. Even in the Division Bench judgment that was relied upon, the Division Bench while dealing with the scope of Section 2(d) of the Act 35 of 2020 has held that a candidate must have completed their entire education right from schooling in Tamil medium. While doing so, the Division Bench specifically took note of SSLC, HSC, Degree, Diploma or Post Graduation. The Division Bench never had an occasion to deal with a scenario where there was a lateral entry into B.E. degree after completing the diploma course.

38. There is yet another angle in which this issue can be dealt with. Explanation (v) talks about a case where a post graduation degree is prescribed as educational qualification. In such a case, the candidate should have studied SSLC, HSC, Degree and Post Graduation through Tamil medium. Therefore, if a candidate had studied SSLC, HSC and Post Graduation Degree in Tamil medium and whereas he has not studied Under



WEB COPY

Graduation in Tamil medium, the candidate will not be entitled to be considered under the PSTM category because of the insistence made in explanation (v). This juxtaposed with explanation (iv) shows that the said explanation does not contemplate a scenario of obtaining a PSTM certificate for a diploma where a degree is prescribed as an educational qualification. In such cases, it is enough if one has studied SSLC, HSC and the Degree through Tamil medium of instruction. This requirement has been satisfied by all the petitioners.

39. In the considered view of this Court, the petitioners, who have undergone their entire education in Tamil, should not be deprived of the PSTM category just because they are not able to get PSTM certificate for the diploma which they underwent. The petitioners have in fact written the diploma exams only in Tamil. They could not have obtained such a certificate since the circular of the Commissioner of Department of Technical Education shows that the diploma course was never instructed through Tamil medium. The object behind the Act will be defeated if the petitioners are not considered under the PSTM category.



WEB COPY

40. *The insistence of TNPSC to get the PSTM certificate for the diploma also runs against the plain language used in explanation (iv) to Section 2(d) of the Act 35 of 2020.*

41. *In the light of the above discussion, the petitioners are entitled to succeed in these writ petitions. Accordingly, it is declared that the petitioners are eligible to be considered under the category of PSTM and their appointment to the post of Assistant Engineer - Civil Engineering can be proceeded further, if the petitioners are otherwise qualified.*

9. All the objections that were raised by the respondents were considered by this Court in the earlier writ petitions and the same was rejected. In view of the same, there is no reason for this Court to once again deal with the same objections.



10. In view of the above, this Court holds that the petitioner is entitled to succeed in this writ petition and accordingly, it is declared that the petitioner is eligible to be considered under the category of PSTM to the post of Junior Draughting Officer, if the petitioner is otherwise qualified.

11. Accordingly, this writ petition stands allowed. No Costs. Consequently, connected miscellaneous petition is closed.

14.10.2024

Internet : Yes
Index : Yes
Speaking Order / Non Speaking Order
SSR

Note: Issue Order Copy on 15.10.2024.

To

1. The Principal Secretary to Government,
State of Tamil Nadu,
Higher Education Department,
Fort St. George,
Chennai – 600 009.



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

3. The Principal,
Government Polytechnic College,
Thoothukudi.



WEB COPY



N. ANAND VENKATESH, J.

SSR

W.P.No.29437 of 2024
and W.M.P.No.32076 of 2024

14.10.2024

21/21