



W.P.(MD)No.24876 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2024

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CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.P.(MD)No.24876 of 2018
and
WMP (MD) Nos.22565 to 22567 of 2018

A.Nirmal Singh Heera

... Petitioner

Vs.

1. Tamil Nadu Public Service Commission,
Represented by its Chairman,
Frazer Bridge Road,
V.O.C.Nagar, Park Town,
Chennai - 600 003.
2. The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
V.O.C.Nagar, Park Town,
Chennai - 600 003.
3. The State of Tamil Nadu,
Represented by Secretary,
Department of Home,
Fort St.George,
Chennai - 09.

[R3 impleaded *vide* order dated 13.02.2019

Page No.1 of 9



W.P.(MD)No.24876 of 2018

made in WMP.No.4800 of 2019 in W.P.No.
24876 of 2018 by VBDJ & VPNJ]

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4. The Registrar General,
Madras High Court,
Chennai - 600 104.

[R4 *suo motu* impleaded *vide* order dated
30.07.2021 made in WP(MD).No.24876
of 2018 by VBDJ & VPNJ]

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Declaration, declaring Sl.No.9 of the Schedule in Rule 5 of TN State Judicial Service (Cadre and Recruitment Rules), 2007 relating to method of appointment, Qualification and Age and consequential notification of TNPSC dated 24.11.2018 insofar as it prescribes that the applicant must be practicing as an Advocate or Pleader in any Court on the date of notification as illegal and unconstitutional and direct the respondents herein to declare results of petitioner's oral test and further direct the respondents herein to consider the petitioner for appointment to the post of Civil Judge in the Tamil Nadu State Judicial Service pursuant to the TNPSC notification no.08/2018 dated 09.04.2018.

[Prayer amended *vide* order dated 13.02.2019 made in WMP.No.4801 of 2019 in W.P.No.24876 of 2018 by VBDJ and VPNJ]



W.P.(MD)No.24876 of 2018

For Petitioner : Mr.C.S.Jayaprakash
For R1 & R2 : Mr.R.Bharanidharan
Standing Counsel for TNPSC
For R3 : Mr.T.Chezhiyan
Additional Government Pleader
For R4 : Mr.B.Vijay

ORDER

(Order of the Court was made by **S.M.SUBRAMANIAM, J.**)

The writ petition has been instituted originally challenging the non-selection of the petitioner to the post of Civil Judge. The prayer in the writ petition was subsequently amended by the petitioner to declare Rule 5 of Tamil Nadu State Judicial Service (Cadre and Recruitment) Rules, 2007 relating to method of appointment, Qualification and Age and consequential notification of TNPSC dated 24.11.2018 as unconstitutional.

2. The petitioner submitted an application to participate in the process of selection for appointment to the post of Civil Judge, pursuant to the recruitment Notification issued by the Tamil Nadu Public Service



W.P.(MD)No.24876 of 2018

Commission on 09.04.2018. The essential qualification as on 09.04.2018 prescribed in the notification reads as under:

(B) ESSENTIAL QUALIFICATIONS (As on 09.04.2018)

The Applicants should possess the following:

I. For practising Advocates/Pleaders and Assistant Public Prosecutors	(i) Must possess a Degree in Law of a University in India established or incorporated by or under a Central Act or a State Act or an Institution recognised by the University Grants Commission, or any other equivalent qualification and enrolled in the Bar Council of Tamil Nadu or in the Bar Council of any other State in India. and (ii)(a) Must be practising as an Advocate or Pleader in any Court on the date of Notification for recruitment to the post and must have so practised for a period of not less than 3 years on such date. or (b) Must be an Assistant Public Prosecutor having not less than 3 years of experience as an Advocate and/or Assistant Public Prosecutor.
II. For Fresh Law Graduates	(i) Must be a fresh Law Graduate possessing a degree in Law from a recognized University as mentioned in Clause-I (i) above, (ii) Must be eligible to be enrolled as an advocate.



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W.P.(MD)No.24876 of 2018

		(iii) Must have secured an overall percentage of marks in acquiring the Bachelor's Degree of Law as below:- (a) 45% Marks in case of Reserved Categories (i.e.) SCs, SC(A)s, STs, MBCs/DCs, BCs(OBCMs) and BCMs). (b) 50% Marks in case of Open Category (i.e. Others). (iv) Must have obtained the Bachelor's Degree of Law within a period of three years prior to the date of notification.
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3. It is not in dispute that the petitioner enrolled himself as an Advocate in the Bar Council of Tamil Nadu and Puducherry. Thus, he submitted his application under the category of Practicing Advocate. Therefore, he must possess the practicing experience for a period of not less than 3 years as on the date of notification. Since the petitioner did not possess the requisite qualification as contemplated under the Notification, his candidature was rejected.

4. We do not find any infirmity in respect of the rejection of application made by the Authorities. The candidates submitting application accepting the terms and conditions stipulated in the Notification cannot turn around and challenge the same after completion of the process of selection.

5. As far as the Constitutional validity of Rule 5 of the Tamil Nadu



W.P.(MD)No.24876 of 2018

Judicial Service (Cadre and Recruitment) Rules, 2007 is concerned, the Rule contemplates two classes of candidates eligible for selection and appointment to the post of Civil Judge. If any discrimination within the class, then alone the Court can interfere and there is no impediment to allow two different classes of persons to participate in a common selection.

6. In the present case, Practicing Advocate/Pleaders and Assistant Public Prosecutors are considered as one class of persons eligible to participate in the process of selection. Fresh Law Graduates are considered as the other class of persons eligible to participate in the process of selection. Different qualifications are prescribed for each class of persons, since both classes are made as qualified for appointment to the post of Civil Judge. Therefore, creating a class within a class alone is prohibited. But allowing different classes to participate in the process of selection cannot be held as unconstitutional. Rule has been further amended in the year 2023 in G.O.Ms.No.194, Home (Courts-I) Department dated 24.04.2023. However, such amendment has no implication in respect of the selection process, which was completed in the year 2018.

7. For all these reasons, we do not find any reasons to consider the



W.P.(MD)No.24876 of 2018

grounds raised in the present writ petitions. The process of selection was completed in the year 2018 itself. That being so, the writ petition is devoid of merits and stands **dismissed**. No costs. Consequently, connected miscellaneous petitions are closed.

[S.M.S., J.] [C.K., J.]
12.07.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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W.P.(MD)No.24876 of 2018

To

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AND
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Order in
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