



W.P.(MD).No.13739 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.06.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.13739 of 2024
and
W.M.P.(MD).No.12082 of 2024

C.Sankaranarayananasamy

...Petitioner

Vs

1.The State of Tamil Nadu,
Represented by its Deputy Secretary to Government,
Human Resources and Management Department,
Secretariat,
Chennai – 600 009.

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

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

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Mandamus, directing the respondents to consider the petitioner for appointment to the posts of Group II A posts under Ex-Serviceman Category in pursuant to the Memo issued by the third respondent vide குறிப்பாணை எண்: 271/PSD-A2/2022 dated 07.05.2024 on the basis of the merit of the Petitioner and allow him to participate in the further process, within the period that may be stipulated by this Court.

For Petitioner : Mr.H.Mohammed Imran
For M/s.Ajmal Associates

For R-1 : Mr.M.Lingadurai
Special Government Pleader

For R-2 and R-3 : Mr.V.Panneer Selvam

ORDER

Heard Mr.H.Mohammed Imran, For M/s.Ajmal Associates, learned counsel appearing for the petitioner, Mr.M.Lingadurai, learned Special Government Pleader for the 1st respondent and Mr.V.Panneer Selvam, learned counsel for the 2nd and 3rd respondents.



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2. This Writ Petition has been filed for issuance of Writ of Mandamus, seeking direction against the respondents to consider the petitioner for appointment to the posts of Group II A posts under Ex-Serviceman Category in pursuant to the Memo issued by the third respondent vide குறிப்பாணை எண்: 271/PSD-A2/2022 dated 07.05.2024 on the basis of the merit of the Petitioner and allow him to participate in the further process.

3. Mr.H.Mohammed Imran, learned counsel appearing for the petitioner submitted that the petitioners who is an Ex-servicemen had applied to the post called for by TNPSC / Group II / Group II (A) and Group – IV services. The Notification calling for Group II(A) posts has been issued on 23.02.2022 and Notification calling for Group IV posts has been issued on 30.03.2022. The preliminary examination for Group–II(A) has been conducted on 21.05.2022 and the main examination was scheduled to be held on 25.02.2023.



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4. Group IV Service did not have preliminary or main examinations, but it had an objective type competitive examination. The said examination for Group-IV examination was held on 24.07.2022.

5. The result of the preliminary examination for Group-II(A) was published on 08.11.2022. The main examination for Group-II(A) was scheduled on 25.02.2023.

6. Even though Group-II(A) was notified before the notification issued for Group-IV posts, the results for Group-IV has been published earlier on 24.03.2023 and the results for Group-II(A) posts were published on 11.01.2024.

7. The petitioner who has got selected in Group-IV posts has been appointed as Junior Assistant on 13.09.2023. When the results for main examination for Group-II(A) was published on 11.01.2024,



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the petitioner found that he has also cleared the main examination for Group-II(A). The petitioner has been given with the call letter to participate in the counselling. Since the petitioner had already joined in Group -IV Service and passed Group-II(A) main examination and got call letter from the second respondent, one of his colleague sought permission from the Department by making representation on 26.09.2023. But through a letter, dated 09.12.2023, the first respondent has rejected the petitioner's claim stating that as per the proviso to Rule 3(j)(x) of Tamil Nadu Government Service Conditions of Rules and Act, once an Ex-serviceman is recruited to any post in any service or class of category, he cannot claim concession of being called an Ex-serviceman for being considered his further recruitment.

8. By citing the above Rules, the petitioner's request seeking permission to participate in the counselling was rejected. Now, the petitioner has filed this writ petition seeking direction against the



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respondents to consider him for appointment to the posts of Group II A posts under Ex-Serviceman Category and allow him to participate in the further selection process.

9. The issue raised in this Writ Petition has been elaborately discussed and covered by the earlier order of this Court passed in a batch of Writ Petitions in ***W.P.(MD)Nos.11995, 11833, 2057, 1425 to 1427 of 2024 dated 11.06.2024***, wherein the order has been analysed as under:

20. As stated already, the facts of this case are distinguishable in view of their applications held to both the services in one and the same time, in view of the fact that the notification for Group -IIA was issued earlier than Group-IV. The petitioners have not completed their probation.

21. So far as these petitioners are concerned, they do not belong to the category of persons, who are going to complete their services in Group-IV or resign their posts or have been dismissed or gone on voluntary retirement and then opt to join the



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Group-IIA by availing the very same concession.

22. This is a simple case where the persons who are in a lower service seeks permission to participate in the counselling for the higher service because they happened to get the results of the higher service later than the results of the lower service. So the best thing which can be done by the first respondent for the petitioners in the event of their selection in Group-IIA counselling would be relieving them in order to enable them to join in the higher post for which they have been selected.

23. At this juncture, the learned counsel for the second respondent brought to the attention of this Court that some other Ex-serviceman have filed Writ petitions in W.P.Nos.13550 and 13553 of 2024 seeking a Writ of Certiorarified Mandamus to call for the records of the second respondent and its publication, dated 07.05.2024 comprising the Register Number of candidates admitted provisionally for physical certificate verification and counselling for filling up posts notified in Advertisement No.605 Notification No.03/2022, dated 23.02.2022 and quash the same insofar as the



said list includes the register numbers of Ex-serviceman who have already availed the benefit of 5% reservation for Ex-serviceman in State Services under Section 27(c) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 in accordance with law.

24. It is also brought to the notice of this Court that an interim order of stay has been granted for publishing the list of candidates who have been selected subsequent to their physical certificate verification and counselling for filling up the post in Group-IIA service until the second respondent/TNPSC could identify and eliminate the register numbers of Ex-serviceman who have already availed the concession. As stated already, persons once availed the benefits shall not be allowed to avail the concession once again. Even without a petition filed by a private person like the petitioners in W.P.Nos.13550 and 13553 of 2024, a duty is bestowed on the second respondent to identify the persons who have availed concession earlier and delete their names in order to ensure that they are not availing the concession once



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again.

25. As already elaborated, these petitioners stand in a different footing, for the reasons already detailed above and hence, the above writ petitions cannot have any impact on these writ petitioners, who have just sought permission of the first respondent to allow them to participate in the counselling scheduled to be held for Group-IIA services and relieve them in case they are chosen in Group-IIA services. So as against these petitioners, they are not going to avail the benefits / concession for Group-IV and Group II(A). They are going to avail either Group-IV or Group-II(A). It is 'not' but 'and' but 'or'.

26. So the respondents ought to have understood the dilemma caused to the petitioners in view of their own fault of releasing the results of the higher service later than the results released for the lower service.

27. Even though an interim order has been granted in W.P.Nos.13550 and 13553 of 2024, that would be only to the limited aspect of releasing the list of selected candidates who have been admitted



provisionally for physical certificate verification and counselling. So what is applicable for every other Ex-serviceman who are allowed to participate for physical certificate verification and counselling will be applicable to these petitioners also after they are allowed to participate in the counselling. Hence, the second respondent has got no difficulty to comply with the orders passed by both the Benches in both the writ petitions. Since the relief sought in both the writ petitions are different and the repercussion of the stay order granted in the earlier writ petition also does not have any impact upon permitting these petitioners to participate in the counselling that is going to be held shortly.

28. It is clarified that these petitioners will be exempted while identifying the persons who have already availed the concession in public service in view of the orders now passed in their favour.

29. In view of the aforesaid discussion, the respondents are directed to consider the petitioners' claim for appointment to the post of Group-IIA posts under Ex-serviceman category in pursuant to the then notification No.3 of 2022, dated



23.02.2022 on the basis of merit and allow them to participate in the further selection process.

10. In the instant case, the petitioner who is an Ex-servicemen had applied for both the post under Group-IIA and Group-IV and he had written the examination for both the Groups. Unfortunately, the second respondent has released the result of Group-IV before releasing the result of Group-IIA. This is not the case where the Ex-serviceman was already joined in one service that is Group-IV and thereafter, applied to other service called for Group II(A) services. Neither the petitioner has got any selection through promotion from the Department where he has joined. As he had applied to the post called under Group-IIA also, even before he got selected and joined in Group-IV service.

11. With the above observations and in the line of the earlier order, this Writ Petition is **allowed** with a direction to the respondents to consider the petitioners' claim for appointment to the



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post of Group-IIA posts under Ex-serviceman category in pursuant

to the Memo issued by the third respondent vide குறிப்பாணை எண்:

271/PSD-A2/2022 dated 07.05.2024 on the basis of merit and allow

him to participate in the further selection process. No costs.

Consequently, connected miscellaneous petition is closed.

27.06.2024

NCC:yes/no

Index:yes/no

Internet:yes/no

Nsr

To:

1.The Deputy Secretary to Government,
The State of Tamil Nadu,
Human Resources and Management Department,
Secretariat,
Chennai – 600 009.

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

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



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R.N.MANJULA, J.

Nsr

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