



W.A(MD)No.2111 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.10.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.A(MD)No.2111 of 2024
and
C.M.P.(MD)No.14966 of 2024**

The State of Tamil Nadu,
Rep. by its Principal Secretary
to Government,
Home (Police-2) Department,
Secretariat,
Chennai-600 009.

... Appellant / 1st Respondent

-vs-

1.P.Puliraja

... 1st Respondent/ Writ Petitioner

2.Tamil Nadu Public Service
Commission,
Voc Nagar,
Park Town,
Chennai-600 003.

...2nd Respondent / 2nd Respondent

PRAYER: Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 07.06.2024 in W.P.(MD)No.11968 of 2024.

For Appellant : Mr.S.R.A.Ramachandran,
Additional Government Pleader

For R-1 : Mr.M.Ajmal Khan,
For M/s.Ajmal Associates

For R-2 : Mr.J.Anand Kumar



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JUDGMENT

[Judgment of the Court was made by R.SUBRAMANIAN, J.]

The two grounds on which the order of the learned Single Judge is challenged is that the next selection process is commenced and therefore, the waiting list cannot be operated and that the candidates who had not joined due to medical unfitness were yet to be declared to be unfit by an appropriate committee.

2. The order impugned in the writ petition is dated 06.05.2024 and that was in reply to a claim by the petitioner who is a wait listed candidate stating that since two candidates who were already selected, did not join due to their ineligibility (Medical Fitness), the waiting lists should be operated and the petitioner should be appointed. The representation of the petitioner was on 17.04.2023, since the same was not considered, the petitioner after sending several remainders filed W.P.(MD)No.26946 of 2023 seeking a Mandamus directing disposal of his representation, the said writ petition is stated to be pending. Even during the pendency of the writ petition, the impugned order came to be passed on 06.05.2024. The reasons given in the impugned order as extracted by the learned single Judge are as follows:

“(i) The eligibility of the candidates who were found to be



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medically unfit have been sent to the Medical Board for the second time and the report of the second Medical Board is obtained and still the same is under active examination of the Government in consultation with the Health and Family Welfare Department; and

(ii) It is further stated that subsequent recruitment was held for the 2021-2022 and hence, earlier selection list will be lapsed in view of Section 3(u) of the Tamil Nadu Government Servants (Condition of Service) Act, 2016.”

3. The selection process in which the petitioner participated ended on 18.07.2022. It was almost one year and ten months when the order impugned in the writ petition was passed. Shockingly, the Government has stated that the eligibility of the candidates found to be medically unfit have been sent to the medical board for second time and report of the second medical board has been obtained and it is under the active examination of the Government. These selections are time bound. The waiting list can be operated only till the commencement of the next selection. If the Government chooses to keep the selection process pending by not taking a call on the medical fitness of the candidates who have been selected it cannot take advantage of its own delay and contend that the next recruitment process has begun and therefore, the first cannot be operated. Section 3(u) of the Tamil Nadu Government Servants Conditions of Services Act is sought to be relied upon that will apply only to an active Government and not to an inactive dormant Government which sleeps over the matter



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4. It is quite shocking that the Principle Secretary to Government must take such a stand that too after a lapse of one year and ten months from the date of the closure of the selection process. All that the Writ Court has done is directing the Government to decide upon the fitness or otherwise of the two candidates who have been medically disqualified and if they are unfit of their appointment offer appointment to the wait listed candidates. We often find that the Tamil Nadu Public Service Commission as well as the Government take highly technical stand when it comes to disqualifying candidates for Government service. We would be happy if only the Commission as well as the Government follow the procedures properly and avoid reopening of the lists settled by it in future.

5. We see no merit in the appeal. The writ appeal therefore fails and it is accordingly dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G., J.]

29.10.2024

NCC :Yes/No

Index :Yes/No

Internet: Yes

Sml

To

The State of Tamil Nadu,

Rep. by its Principal Secretary



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to Government,
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