



W.A.Nos.2587 and 2588 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 23.07.2025

C O R A M

THE HONOURABLE MRS.JUSTICE J.NISHA BANU
AND
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

W.A.Nos.2587 and 2588 of 2022 and
C.M.P.Nos.20403 and 20411 of 2022

W.A.No.2587 of 2022

P.Mathias

... Appellant/Petitioner/Petitioner

-VS-

1. The State of Tamil Nadu
Secretary to the Government,
Personnel and Administrative Reforms Department,
Fort St George, Chennai.
2. The State of Tamil Nadu,
Secretary to the Government,
School Education Department,
Fort St. George, Chennai.
3. The Secretary,
Tamil Nadu Public Service Commission,
Chennai.
4. The Director of School Education,
DPI Compound, College Road,
Chennai.



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5. Thiru.Ganesamoorthy

6. Thiru.A.Pugazhendi

7. Thiru.R.Balamurali

8. Tmt.P.Usha

... Respondents/Respondents/Respondents

Prayer: Writ Appeal is filed under Clause 15 of the Letters Patent, seeking to set aside the common order dated 10.12.2021 made in Review Application No.127 of 2016 against W.P.No.6412 of 2011 dated 10.08.2016.

For Appellant	: Mr.R.Sivakumar
For R1 & R2	: Mr.M.Rajendran Addl. Govt. Pleader
For R3	: Mr.Abrar Mohammed Abdullah
For R4	: Mr.J.C.Durairaj Addl.Govt.Pleader
For R5 to R8	: No Appearance

W.A.No.2588 of 2022

P.Mathias

... Appellant/Petitioner/Petitioner

-vs-

1. The Secretary,
Tamil Nadu Public Service Commission,
Chennai-2.
2. The Director of School Education,
DPI Campus, College Road,
Chennai-2.
3. Thiru.Gnanprakasam, D.E.O.,
P.G.Teacher in Chemistry,
Pachaiappa Higher Secondary School,
Kancheepuram.



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4. Smt.Usha

P.G.Teacher in English,

Govt. Higher Secondary School,

Thogaimalai, Karur.

... Respondents/Respondents/Respondents

Prayer: Writ Appeal is filed under Clause 15 of the Letters Patent, seeking to set aside the common order dated 10.12.2021 made in Review Application No.126 of 2016 against W.P.No.4961 of 2010 dated 10.12.2021.

For Appellant	: Mr.R.Sivakumar
For R1	: Mr.M.Rajendran Addl. Govt. Pleader
For R2	: Mr.J.C.Durairaj Addl.Govt.Pleader
For R3 & R4	: No Appearance

COMMON ORDER

(By J.Nisha Banu,J.)

These Writ Appeals have been filed, challenging the common order dated 10.12.2021, passed in the Review Applications, by which the said Review Applications have been dismissed by this Court, approving the procedures adopted by the TNPSC in the matter of following the communal roster.

2. For the sake of brevity, the facts are being taken from W.A.No.2587 of 2022, which read as under:



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2.1. The appellant applied for the post of District Educational

Officer in consequence of the Advertisement No.183 dated 23.01.2009 and secured first mark in English. However, in his place, another person, who has scored lesser marks was selected and appointed for the said post. According to the appellant, the 1st respondent changed the roster with an intention to select another candidate for the vacancy against the subject English;

2.2. Aggrieved by such selection, the appellant filed a Writ Petition, wherein, it was stated by the learned Standing Counsel for the TNPSC that the petitioner has not reached the zone of consideration, as he has secured lesser marks and therefore, recording the statement of the learned Standing Counsel the Writ Petition was closed. Challenging the order passed by the Writ Court, the appellant filed Rev.A.No.126 of 2016, stating that the selection process was completed on the whims and fancies of the TNPSC, which is bad in law. However, learned Single Judge refused to accept the contention raised by the appellant and dismissed the Review Application. Hence, the appellants are before this Court.



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3. Learned counsel for the appellants assailed the impugned

order on the ground that the rights of a candidate, who has secured more marks and is included in the temporary list with reference to the qualification on the crucial date, ought to be protected. The action of the TNPSC in passing over the selection of the appellants is absolutely construed as illegal and such an error is apparent on the face of record. Unfortunately, learned Single Judge failed to consider the said aspect and dismissed the Review Applications.

4. Learned Standing Counsel for the TNPSC justified the action of the TNPSC, stating that there is no procedural irregularity on the part of TNPSC and the selection of the appellants had to be passed over in order to follow the roster point for BC category. The appellants cannot complain of the procedures followed by the TNPSC in allotment of the post to a person, who has secured more marks than the appellants in some other subject in terms of roster point. Therefore, the learned Single Judge rightly rejected the Review Applications and the common order passed therein does not warrant any interference by this Court.



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5. Heard the learned counsel for the respective parties and perused the material documents available on record.

6. The petitioner participated in the selection for the post of District Elementary Educational Officer and secured 265.50 marks in the written and oral tests. He belongs to BC community. The main grievance of the petitioner is that the person, who scored lesser marks got appointment and thereby, his meritorious right of selection was deprived. The petitioner filed two W.P.Nos.4961 of 2010 and 6412 of 2011, seeking to forbear the respondents from filling up the post and to quash the selection of persons, who secured lesser marks respectively. Both the Writ Petitioners were dismissed on the ground that he has not reached the zone of consideration. Against the said order, the petitioner preferred Review Applications, in which this Court rendered that there is no error apparent on the face of record and dismissed the Review Applications. One of the grounds urged by the appellants is that the consideration of the next candidates would arise in the event the first two candidates were declared to be unqualified for the



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selection and the TNPSC has no power to change the roster as per their own whims and fancies in order to accommodate the persons of their choice.

7. It is pertinent to state here that in terms of the roster mechanism being followed by the TNPSC in the light of various Government Orders, there are six turns prescribed for categorizing the meritorious candidates, subject to the rule of reservation. It means that a roster is a sequential list of positions and roster points are allocated to different categories based on the prescribed percentages of reservation. The roster helps maintain a balance representation amongst different categories and prevents excessive representation of any particular group. When an identical issue came up for consideration, a Division Bench of this Court in the case of *TNPSC vs. C.Munsamy*, reported in *CDJ 2006 MHC 0351* categorically held that there cannot be uniform application of subject-wise selection/reservation, as the method of selection will vary every year.

8. In the given case, the selection is not based on the marks scored in the particular subject under BC category and if a person under BC



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category has secured more marks in other subject, he would be given preference in consonance with the roster system. To be more precise, if the vacancies in the particular subject are exhausted, the subsequent candidates, who are qualified in the said subject would be passed over, irrespective of the fact that those candidates have secured the highest marks and the next person, who is qualified in other subjects would be selected. Those aspects of the matter have been duly considered by the learned Single Judge and dismissed the Review Applications. Merely because the petitioner has secured more marks in English subject, it cannot be said that he should be selected without taking into consideration the rule of reservation and the roster system. Therefore, we find that there is no infirmity in the common order dated 10.12.2021 and the common order is liable to be confirmed.

9. The doctrine of merger will operate, once the main order is reviewed subsequently in the review application. In that event, the aggrieved party can file an appeal against the order passed in the review application. In this case, the Review Applications were dismissed. Therefore, the petitioner ought to have filed an appeal against the main



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order. This finding of ours is fortified by the following judgments of the

Apex Court:

- i) *Bussa Overseas and properties Private Limited & another v. Union of India & another ((2016) 4 SCC 696);*

“29. Needless to state that *when the prayer for review is dismissed, there can be no merger*. If the order passed in review recalls the main order and a different order is passed, definitely the main order does not exist. In that event, there is no need to challenge the main order, for it is the order in review that affects the aggrieved party.”

- ii) *DSR Steel P Limited v State of Rajasthan (2012) 6 SCC 762;*

“The Second situation that one can conceive of is where a court or tribunal makes an order in a review petition by which the review Petition is allowed and the decree/order under review is reversed or modified. Such an order shall then be a composite order whereby the court not only vacates the earlier decree or order but simultaneous with such vacation of the earlier decree or order, passes another decree or order or modifies the one made earlier. *The decree so vacated reversed or modified is then the decree that is effective for the purpose of a further appeal, if any, maintainable under law.* “

J.NISHA BANU, J.



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AND
M.JOTHIRAMAN, J.
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10. In the light of the above judgments and the reasons stated supra, we find no infirmity in the common order dated 10.12.2021, passed by the learned Single Judge in the Review Applications. Accordingly, these Writ Appeals are dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(J.N.B.J.,) (M.J.R,J.,)
23.07.2025

Index: Yes / No

Internet: Yes / No

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