

W.P.No.7439 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.7439 of 2025

M.Gurunathan

... Petitioner

Vs.

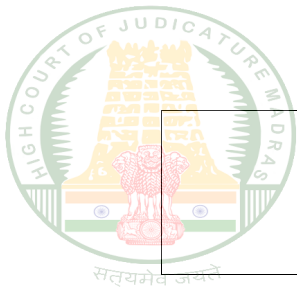
1.The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Home (Courts) Department,
Fort St. George, Chennai - 9.

2.The Registrar General,
High Court of Madras,
Chennai - 104.

3.The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
V.O.C. Nagar, Chennai - 3.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamu, to direct the 3rd respondent to consider the petitioner to the post of Civil Judge in view forbearing the respondents from interfering the peacefully under the category of OL, clause 17(b)(viii) of the advertisement No.661 and Notification No.12/2023 dated 01.06.2023 issued by the 3rd respondent after the due consultation of the 3rd respondent in view of the judgment in 2013 (5) MLJ, Page No.438.



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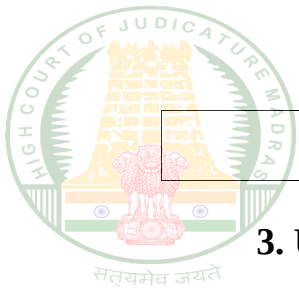
For Petitioner : Mr.P.Vijendran
For Respondents : Mr.K.H.Ravikumar,
Government Advocate for R1
Mr.E.Chandrasekaran,
Standing Counsel for R2
Mr.R.Bharanidharan,
Standing Counsel for R3

ORDER

(Order of the Court was made by ***R.SUBRAMANIAN, J.***)

The petitioner questions his non-selection and seeks a Mandamus to direct the 3rd respondent to consider him for appointment to the post of civil Judge.

2. The petitioner comes under the category of persons with disability. His disability is a locomotor disability and the percentage of disability is 55% which qualifies as bench mark disability for reservation provided for under the Rights of Persons with Disabilities Act, 2016.

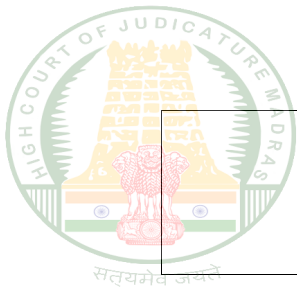


3. Under the said Act a reservation of 4% has to be made for persons with

disabilities and the same will have to be again sub-divided into four heads viz,

- a) persons with blindness and low vision;
- b) persons who are deaf or hard of hearing;
- c) locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy;
- d) autism, intellectual disability, specific learning disability and mental illness.

4. The reservation that is made is 4% of seats for persons with benchmark disability. The Act requires the reservation of 4% to be made in any Government employment and out of the said 4%, 1% each shall be reserved for blindness and low vision, deaf and hard of hearing, locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy contained in clauses (a) to (c) of sub-Section 1 of Section 34 of the Act and 1% is to be given to people with autism, intellectual disability, specific learning disability and mental illness and multiple disabilities from amongst persons in clause (d) as provided for under Clauses (d) and (e) of sub-Section 1 of Section 34.



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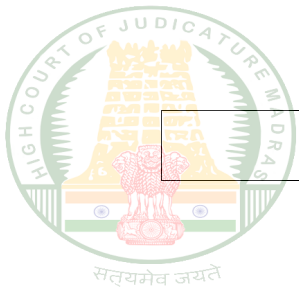
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5. As per the notification of the Tamil Nadu Public Service Commission, there were 9 posts available for persons with disabilities in the recruitment that was conducted for selection of Civil Judges - Junior Division in the year 2024.

The breakup of the TNPSC is as follows:

Sl. No.	Notified DAP Vacancies	Reg No of Selected Candidates	Rank	Mark	DA Category
Carried Forward Vacancies (DAP)					
1	GT(G)(LV)_C/F-1	2501002058	122	263.500	Mud
2	BC(G)(LD/LC/DF/AC)_C/F-1	2601003059	271	242.842	LD(OL)
3	SC(G)(HH)_C/F-1	0101007076	390	225.000	LD(OA)
Regular Vacancies (DAP)					
4	GT(G)(HH)-1	Unfilled due to paucity of candidate.			
5	GT(W)(LD)(Others)-1	0101001172	379	227.500	LD(OL)
6	BC(W)(HH)-1	Unfilled due to paucity of candidate.			
7	MBC/DC(G)(LV)-1	Unfilled due to paucity of candidate.			
8	MBC/DC(G)(LD)(Others)-1	2501004085	288	240.500	LD(OA)
9	SC(W)(LV)-1	Unfilled due to paucity of candidate.			

6. Section 34(2) of the Act mandates that if persons are not available for any particular vacancy then the said vacancy shall be carried forward to the next recruitment year and only if no suitable person is available in the next recruitment year could it be interchanged with persons with other disabilities.



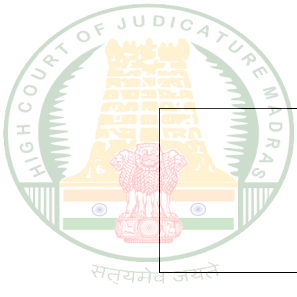
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7. In the present recruitment the carried forward vacancies were filled up with candidates who had scored higher marks than the petitioner. In the regular vacancies four posts were left unfilled due to paucity of candidates. They fall either under persons hard of hearing or persons with low vision. These vacancies being current vacancies, cannot be filled up with persons with other disabilities by interchanging. The Act mandates that the vacancy should be carried forward at least for 1 year.

8. Though Mr.P.Vijendran, learned counsel appearing for the petitioner would submit that we must decide this issue with our head and heart put together and we see some force in his contention. We find that the provisions of the Act which are mandatory in nature prevent us from exercising any discretion in this regard. We are therefore unable to lend a helping hand to the petitioner.

9. The writ petition therefore fails and it is accordingly dismissed. No costs.

(R.S.M.,J.) (G.A.M.,J.)



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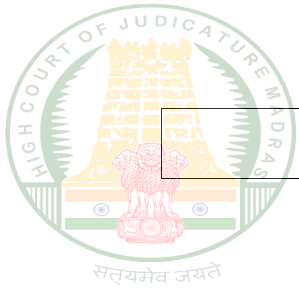
Speaking order

To

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