



WEB COPY



W.P.No.34830 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	07.03.2025
Pronounced On	17.06.2025

Coram:
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.34830 of 2015
and M.P.No.1 of 2015 and W.M.P.No.12934 of 2017

L.Raja

...Petitioner

Versus

1.State of Tamil Nadu

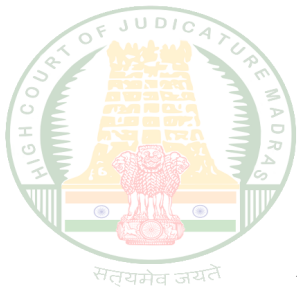
Represented by its Secretary to Government,
Personnel & Administrative Reforms Department,
Secretariat, Chennai – 600 009.

2.Tamil Nadu Public Service Commission,

Represented by its Secretary,
VOC Nagar, Frazer Bridge Road,
Park Town, Chennai – 600 003.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the second respondent commission to select and appoint the petitioner to any of the posts included under the Combined Service Examination – 1 (CSSE-1) notified vide Advertisement No.258, dated 30.12.2010 in the BC (General) Category.



WEB COPY



W.P.No.34830 of 20...

For Petitioner : Mr.R.Singaravelan,
Senior Counsel
for Ms.M.Srividhya

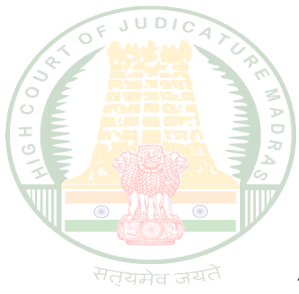
For Respondent – 1 : Mr.Tippusulthan,
Government Advocate

For Respondent – 2 : Ms.G.Hema,
Standing Counsel

ORDER

The relief sought in this Writ Petition is to direct the 2nd Respondent to select and appoint the Petitioner to any of the posts included under the Combined Service Examination – 1 (CSSE-1) notified vide Advertisement No.258 dated 30.12.2010 in the BC (General) Category.

2. The 2nd Respondent had issued a Notification dated 30.12.2010 for direct recruitment to the various posts included in Combined Subordinate Services Examination – I. The posts mentioned in Table – I of the Recruitment Notification dated 30.12.2010 are interview posts and the method of selection for the post is by way of Written Examination & Oral Test.



WEB COPY

3. The posts mentioned in Table – II of the aforesaid Recruitment Notification are “Non-Interview posts” and the method of selection for those posts is by way of Written Examination alone.

4. The Petitioner who had completed B.Sc. (Physics) & MCA, responded to the aforesaid Recruitment Notification vide Advertisement No.258 dated 30.12.2010 and applied for one of the Non-Interview posts in Table – II of the said Recruitment Notification. The Petitioner had appeared for the written examination on **30.07.2011**. The results for the said written examinations were published on **20.11.2012**.

5. The Petitioner had scored 232.50 marks in the aforesaid written examination and was ranked as 5443. The Petitioner was thereafter called for Certificate Verification on **30.11.2012** vide Communication dated 26.11.2012. However, it is submitted that the Petitioner was not aware that he was short listed and called for Certificate Verification since he suffered from typhoid fever at that point of time.

6. When the Petitioner came to know about the same, he approached



WEB COPY

the 2nd Respondent in person on **18.12.2012** and made representations dated **18.12.2012** and **09.01.2013** to the 2nd Respondent requesting to include his name in the 4th Phase & 5th Phase of counselling to Non-Interview posts included in CSSE-I, 2009-2011 and appoint him to any of the Group II Non-Interview posts included in TNPSC CSSE-I 2011, but, to which, there was no response from the 2nd Respondent.

7. The specific case of the Petitioner was that though the Petitioner had scored 232.50 marks in the written examination for the post in Table – II of the Recruitment Notification, the Petitioner did not know of the results of written examination published on 20.11.2012 since the Petitioner was living in a remote village which did not have Internet facility.

8. The learned Senior Counsel for the Petitioner drew the attention of this Court to an Order dated **27.06.2024** in **W.P.Nos.14410, 14411 & 8069 of 2014** in respect of the very same Recruitment Notification dated 30.12.2010.

8.1. It is submitted that in W.P. Nos.14410, 14411 & 8069 of 2014,



this Court had directed the Tamil Nadu Public Service Commission/2nd

Respondent herein to call the Petitioners therein for Certificate Verification, select them if they satisfied all the other requirements and appoint them as Assistants in any one of the Departments enumerated under Clause 19 of the Recruitment Notification dated 30.12.2010.

8.2. It is also submitted that in Paragraph No.7 of the Order dated 27.06.2024 in W.P. Nos.14410, 14411 & 8069 of 2014, this Court had captured the mistake committed by the 2nd Respondent. For better appreciation, Paragraph No.7 of the Order dated 27.06.2024 is reproduced hereunder:

“7. In the counter filed by the Joint Secretary, Tamil Nadu Public Service Commission, Chennai, the above stand taken by the petitioners is factually admitted. In paragraph No.5 of the counter, it is stated as follows:

“5. It is respectfully submitted that this was the first time that the process of counseling was introduced and due to large volume of candidates had been summoned for counseling, and due to absence of some candidates summoned for counseling and unwillingness expressed by of some candidates during counseling, the petitioners have been omitted from being taken which is purely a genuine mistake. Counselling system now in practice has been modified appropriately and such mistake will not occur now. The above petitioners as indicated will be accommodated in the next phase of counseling.””

8.3. Further, the learned Senior Counsel for the Petitioner submitted that the person who was selected to the post of Assistant in Police



Department for Backward Class (General) had scored only 231 marks in the written examination, whereas, the Petitioner who belongs to Backward Class category had scored 232.50 marks in the written examination and therefore, the Petitioner was entitled to be selected.

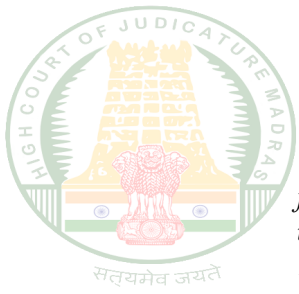
8.4. That apart, it is submitted by the learned Senior Counsel for the Petitioner that as per the Recruitment Notification dated 30.12.2010, the selection for appointment to the Non-Interview posts mentioned in Table – II was to be made on the basis of the total marks obtained by the candidates in the written examination.

8.5. The learned Senior Counsel for the Petitioner specifically drew the attention of this Court to Clause 8 of the Recruitment Notification dated 30.12.2010 which reads as under:

“8. PROCEDURE OF SELECTION:-

The selection of candidates for appointment to the posts mentioned against Sl.Nos.1 to 16 of the Table-I will be made in two successive stages viz., (i) Written Examination and (ii) Oral Test in the shape of an interview and the Final selection will be made on the basis of the total marks obtained by the candidates at the Written Examination and Oral Test taken together and the post option exercised by the candidates and following the rule of reservation of appointments separately for each post and unit. Candidate's appearance in the Written Examination and for Oral Test is compulsory.

The selection for appointment to the posts mentioned against Sl.No.17 to 37 of Table-II will be made on the basis of total marks obtained by the candidates in the Written Examination and the post option exercised by the candidates



WEB COPY



W.P.No.34830 of 20..

following the rule of reservation of appointments separately for each post and unit.

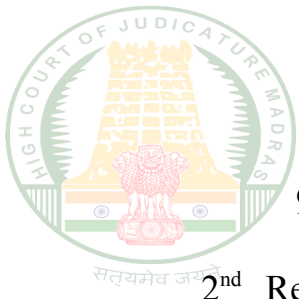
Two separate Rank Lists will be prepared for Interview posts mentioned against Sl.No.1 to 16 under Table-I and Non Interview posts (Sl.No.17 to 37) under Table-II.

The candidates who are to be considered only for non-interview post, will be summoned for certificate verification after the conduct of oral test.

Selection in respect of Non-Interview posts will be taken up after finalising the selection for Interview posts mentioned against Sl.No.1 to 16 excluding those who have been selected for Interview posts.

8.6. It is submitted by the learned Senior Counsel for the Petitioner that mere hosting of the Memorandum and summoning the candidates for 1st Phase of counselling in the website or publishing the same in the newspapers is not sufficient for service of notice i.e., summoning for counselling. Since there was no individual intimation to the Petitioner regarding the Certificate Verification and counselling, the Petitioner was unable to attend the same.

9. On the other hand, the learned Standing Counsel for the 2nd Respondent submitted that the List of candidates admitted provisionally during 1st Phase of counselling was published in the Tamil Dailies viz., Dina Thanthi, Dinamani, Dinakaran etc., on **21.11.2012**. The 1st Phase of counseling was conducted from on 22.11.2012 to 01.12.2012.



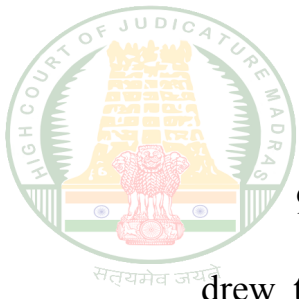
WEB COPY

9.1. It is further submitted by the learned Standing Counsel for the 2nd Respondent that after the completion of 1st Phase of counselling conducted for Non-Interview posts, 5 more counsellings were also conducted. It is stated that before conducting the said 5 counsellings, individual communication regarding the date and time of Certificate Verification and counselling were intimated to the selected candidates separately by the 2nd Respondent.

9.2. The learned Standing Counsel for the 2nd Respondent also submitted that though the 2nd Respondent had sent individual communication to the Petitioner indicating the date and time of Certificate Verification and counseling, however, it is stated that the Petitioner failed to respond to the same.

9.3. The learned Standing Counsel for the 2nd Respondent has produced a Counselling Schedule for Posts included in CSSE-I 2009-2011, wherein, particularly, in S.No.4 of the Note, it has been stated as follows:

“4. The candidate who does not appear for counselling on the scheduled date will lose his/her seniority in the combined merit list, consequential allotment and they will not be given any further chance to appear for the same.”



WEB COPY

9.4. That apart, the learned Standing Counsel for the 2nd Respondent drew the attention to Paragraph Nos.14.1 & 15 of the Judgement dated 08.11.2023 in W.A. No. 93 of 2023 passed by the Division Bench of this Court, wherein, it has been observed as follows:

“14.1. A perusal of the above letter dated 07.11.2013 would not reveal any circumstances much less extraordinary circumstances to exist, which prevented the 1st Respondent from attending the counselling. Therefore, we see no reason to find fault with the rejection of the 1st Respondent's candidature for appointment.

15. Secondly, the order of rejection dated 26.12.2013 has been challenged by the 1st Respondent after almost 4 years from the date of the impugned order and the said laches remain unexplained. Moreso, we are informed that the posts have been filled, thereby, resulting in creation of 3rd party right, which would now be disturbed in the event of any interference by this Court, which is yet another reason to exercise restraint. In this regard, it may be useful to refer to the following judgments of the Hon'ble Supreme Court:

(i) Amlan Jyoti Borooah v. State of Assam, (2009) 3 SCC 227 : (2009) 1 SCC (L&S) 627 : 2009 SCC OnLine SC 174 at page 237

“38. It is not in dispute that for filling up the post of 112 vacancies about 6000 candidates applied. Processing of their applications and holding of written examination, viva voce examination and physical ability test took a long time. At the first stage of the recruitment process, 57 posts more than the advertised 112 posts were filled up.

39. The appellant did not question the legality and/or validity thereof. He should have done the same at the earliest possible opportunity. Having regard to the emergent situation, in regard whereto we have taken note of earlier, proposal was made to increase the number of vacancies from time to time.”
(emphasis supplied)

(ii) Meena Sharma v. State of J&K, (2020) 15 SCC 648 : 2019 SCC OnLine SC 1580 at page 653

“The four-year delay on the part of the fifth respondent in contesting the appointment of the appellant disentitled her to claim any relief.”

(iii) Union of India v. N. Murugesan, (2022) 2 SCC 25 : (2022) 1 SCC (Civ) 711 : (2022) 1 SCC (L&S) 328 : 2021 SCC OnLine SC 895 at page 38



WEB COPY



W.P.No.34830 of 2012

“22. Two essential factors to be seen are the length of the delay and the nature of acts done during the interval. As stated, it would also involve acquiescence on the part of the party approaching the court apart from the change in position in the interregnum. Therefore, it would be unjustifiable for a Court of Equity to confer a remedy on a party who knocks its doors when his acts would indicate a waiver of such a right. By his conduct, he has put the other party in a particular position, and therefore, it would be unreasonable to facilitate a challenge before the court. Thus, a man responsible for his conduct on equity is not expected to be allowed to avail a remedy.””

Therefore, it is submitted that in the light of the above Judgment, this writ petition is liable to be dismissed.

10. By way of rejoinder, the learned Senior Counsel for the Petitioner submitted that it is the case of the Respondent that individual communication was sent to selected candidates.

11. On the other hand, the learned Standing Counsel for the 2nd Respondent submitted that in Paragraph No.7 of the Counter Affidavit filed by the 2nd Respondent, it has been clearly stated that the list of candidates admitted provisionally for 1st Phase of counselling was posted in the 2nd Respondent's website on 20.11.2012 and the Petitioner had been summoned for counselling on 30.11.2012, but, he was absent.

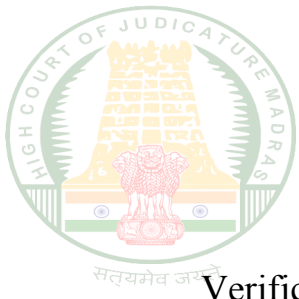


WEB COPY

12. In reply, the learned Senior Counsel for the Petitioner drew the attention of this Court to Paragraph No.18 of the Affidavit filed in support of this writ petition, wherein, it has been clearly stated that even in the instant case in the previous selection which was held on 05.02.2014, the 2nd Respondent/Commissioner never published the category of the candidates who were selected and thus, leaving the candidates like the Petitioner in the dark.

13. Heard the learned counsel on either side and perused the materials available on record.

14. There is no dispute that the Petitioner had participated in the competitive examination for a Non-Interview posts pursuant to the Recruitment Notification dated 30.12.2010. On 20.11.2012, the list of candidates selected for the Non-Interview posts was released, which included the name of the Petitioner. Those candidates who were selected for the Non-Interview posts were called for counselling vide Communication dated 26.11.2012.

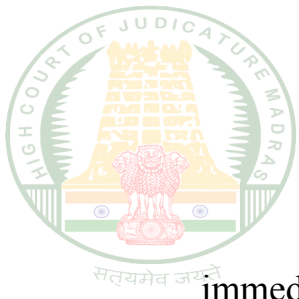


WEB COPY

15. However, the Petitioner failed to attend the Certificate Verification on the allotted date viz., 30.11.2012. Thereafter, the Petitioner has sent Representations on various dated viz., on 18.12.2012, 09.01.2013, 05.02.2014 and 02.07.2014 to the 2nd Respondent to consider the Petitioner for counselling for the Non-Interview posts.

16. The fact remains that the Petitioner had approached the 2nd Respondent on 18.12.2012 in person immediately after the date for Certificate Verification expired on 30.11.2012 / 01.12.2012 and had given a written representation to the 2nd Respondent on the very same date i.e., 18.12.2012. Thereafter, as stated above, the Petitioner gave a Representation dated 09.01.2013 to the 2nd Respondent, but, the same has not been considered.

17. Further, the fact remains that the results of the written examination for the Non-Interview posts were published only in the Newspaper and date of counselling for the selected candidates vide Communication dated 26.11.2012 indicating that the selected candidates should come for Certificate Verification was not received by the Petitioner.



WEB COPY

18. In any event, the Petitioner has approached the 2nd Respondent immediately on 18.12.2012 when the Petitioner came to know that the date for Certificate Verification by the Respondent for the Non-Interview posts has expired on 30.11.2012 / 01.12.2012. Thus, it is evident that the Petitioner has been diligent.

19. The fact also remains that the Petitioner has secured 232.50 marks in the written examination and was ranked as 5443 for the Non-Interview posts, whereas, the persons with lower mark and rank under the same category viz., BC (General) was selected to the post of Assistant in the Police Department by the Respondents.

20. The only difficulty at this instant point of time is the lapse of 10 years since filing of this Writ Petition for the above relief. The Petitioner was aged about only 37 years at the time when this Writ Petition was filed and will about 47 years now, when this Order is being passed. He has no scope for employment in Public Service as he would be barred by age.

21. While dealing with a case pertaining to the same Recruitment



W.P.No.34830 of 20...

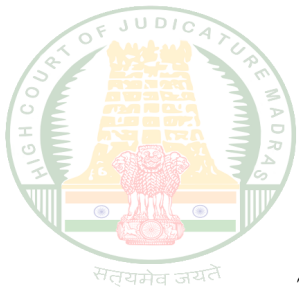
Notification dated 30.12.2010, this Court has come to the rescue of the candidate in W.P.Nos.14410, 14411 & 8069 of 2014 vide Order dated 27.06.2024.

WEB COPY

22. Under Article 14 of the Constitution of India, every citizen is entitled to equality before the law and equal protection of the laws within the territory of India.

23. There has been a manifest violation of the rights of the Petitioner since the Petitioner was not effectively communicated of his selection to the Non-Interview posts and the date of Certificate Verification for the said post by the Respondent. Therefore, the relief sought for by the Petitioner in this Writ Petition can be granted.

24. Although more than 10 years have lapsed since filing of this Writ Petition and 13 years have lapsed since the recruitment proceedings were completed for the Non-Interview posts in the Recruitment Notification dated 30.12.2010, for the marks obtained by the Petitioner, the Petitioner deserves appointment as an Assistant in any of the Department under Part III of the Tamil Nadu Subordinate Service Rules.



W.P.No.34830 of 20..

WEB COPY

25. Therefore, the Respondents are directed to create a supernumerary post and issue an Appointment Letter to the Petitioner within a period of three months from the date of receipt of a copy of this order after ascertaining whether the Petitioner is still interested in seeking employment. It is made clear that the appointment of the Petitioner is to be only prospective with no retrospective monetary benefit or any other attendant benefits of the Petitioner.

26. This Writ Petition stands disposed of with the above observation.
No costs. Consequently, connected Miscellaneous Petitions are closed.

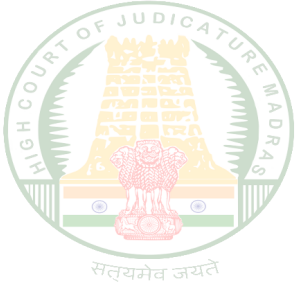
17.06.2025

mrr

Index : Yes/No

Neutral Citation: Yes/No

Speaking Order (or) Non-Speaking Order



W.P.No.34830 of 20...

WEB COPY

To

- 1.The Secretary to Government,
Personnel & Administrative Reforms Department,
Secretariat, Chennai – 600 009.
- 2.The Secretary,
Tamil Nadu Public Service Commission,
VOC Nagar, Frazer Bridge Road,
Park Town, Chennai – 600 003.



WEB COPY



W.P.No.34830 of 2015

C.SARAVANAN, J.

mrr

W.P.No.34830 of 2015

17.06.2025