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W.P.No.6980 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2025

CORAM:

THE HONOURABLE Ms. JUSTICE P.T.ASHA

W.P.No.6980 of 2024

and

W.M.P.Nos.7784 and 7786 of 2024

I.Prasanth

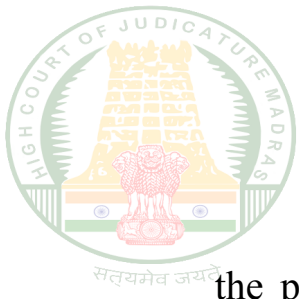
... Petitioner

Vs.

Tamil Nadu Public Service Commission,
Represented by its Secretary,
Public Service Commission Road,
Park Town,
Chennai-600 003.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondent to permit the petitioner to participate in the physical certificate verification and counselling for recruitment to the posts of Assistant Section Officer (Other than Law and Finance Department) in the Tamil Nadu Secretariat Service (Included in Group-VA) notified in Notification No.21/2022 dated 23.08.2022 which is scheduled to be held on 18.03.2024 and to appoint the petitioner in



W.P.No.6980 of 2025

the post of Assistant Section Officer (other than Law and Finance Department) in the Tamil Nadu Secretariat Service (included in Group V-A) in accordance with the rank obtained by him with all consequential service benefits.

For Petitioners : Mr.R.Prem Narayan

For Respondents : Mr.G.Hema

ORDER

The above writ petition has been filed for a mandamus directing the respondent to permit the petitioner to participate in the physical certificate verification and counselling for recruitment to the post of Assistant Section Officer other than Law and Finance Department in the Tamil Nadu Secretariat Service notified in Notification No.21 of 2022 dated 23.08.2022 which was scheduled to be held on 18.03.2024 and to appoint him in the post of Assistant Section Officer in the Tamil Nadu Secretariat Service in accordance with the rank obtained by him with all consequential service benefits.



W.P.No.6980 of 2025

WEB COPY

2. It is the case of the petitioner that he is working as Forester in the Forest Department, Government of Tamil Nadu. Initially, he was recruited as Junior Assistant in the Tamil Nadu Ministerial Service by the Tamil Nadu Public Service Commission and thereafter he was allotted to the Forest Department in the Government of Tamil Nadu. He joined as a Junior Assistant on 03.07.2014 and his services were regularized in the post of Junior Assistant with effect from the initial date of his appointment. His probation as a Junior Assistant was also declared. Thereafter, he was promoted as Assistant and served in that capacity from 07.09.2017 to 31.05.2020. His probation in the post of Forester is yet to be declared.

3. While so, the TNPSC had issued a Notification in Notification No.21 of 2022 dated 23.08.2022 for recruitment to the post of Assistant Section Officer/Assistant in the Tamil Nadu Ministerial Service / Tamil Nadu Judicial Ministerial Service included in Group-VA services from among the holders of the post of

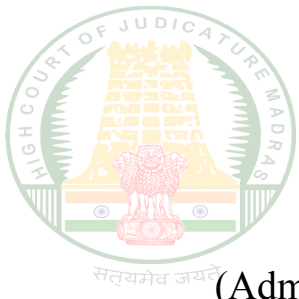


W.P.No.6980 of 2025

WEB COPY

Junior Assistant or Assistant in the Tamil Nadu Ministerial Service/Tamil Nadu Judicial Ministerial service. By subsequent notification, the number of posts were increased to 84 in respect of Assistant Section Officer (other than Law and Finance Department) and to 56 posts in respect of Assistant (other than Law and Finance Department).

4. The petitioner would submit that he belongs to the Most Backward Class community and holds a B.A degree in English literature. The requisite qualifications for appointment to the post of Assistant Section Officer are a) Bachelor's degree and b) Drafting experience for a period of not less than five years in the post of Junior Assistant or Assistant or in both posts taken together. Nowhere in the notification was there any specific requirement that the applicants should be currently holding the post of Assistant / Junior Assistant. The petitioner had obtained a No Objection Certificate dated 20.09.2022 from his appointing authority, namely the Additional Principal Chief Conservator of Forests



W.P.No.6980 of 2025

WEB COPY

(Administration) in the prescribed format and uploaded it in the TNPSC website. Therefore, the petitioner had brought it to the notice of the respondent at the application stage itself that his current designation is that of Forester and that he had served as Junior Assistant from 03.07.2014 to 06.07.2017 and as Assistant from 07.09.2017 to 31.05.2020 thereby completing five years of drafting experience in the post of Junior Assistant and Assistant. He had also uploaded an experience certificate as mandated by the respondent.

5. After verifying the petitioner's qualification, he was issued with a hall ticket to participate in the written test and he also participated in the written test which was held on 18.12.2022. He had secured an overall rank of 17 and a communal rank of 3. The petitioner would further submit that 25 posts of Assistant Section Officer were available under general quota and 17 posts were reserved for candidates belonging to MBC. Therefore, the petitioner became eligible both under the general quota as well the communal quota. On 04.10.2023, the respondent published the list of candidates

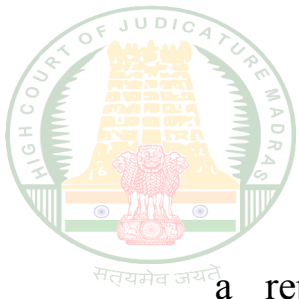


W.P.No.6980 of 2025

WEB COPY

who were admitted for on-screen certificate verification and the petitioner's name was also included in the list. He had participated in the on-screen certificate verification. He was directed to upload the No Objection Certificate in the prescribed format in the respondent's website by 04.01.2024. The petitioner had uploaded the existing No objection Certificate along with a covering letter to the Controller of Examination on 03.01.2023.

6. Thereafter, the respondent published the list of candidates who have been provisionally admitted for physical certificate verification and counselling for the post of Assistant Section Officers / Assistant in the Tamil Nadu Secretariat Service on 11.03.2023. To the petitioner's shock, his name was not included in the said list and no reasons have been assigned to him. The petitioner would submit that the recruitment process for the post of Assistant Section Officer from the date of Notification on 23.08.2022 to the date of release of the provisional list of candidates for counselling on 11.03.2024 has taken for more than 1 ½ years. Further, the petitioner had submitted

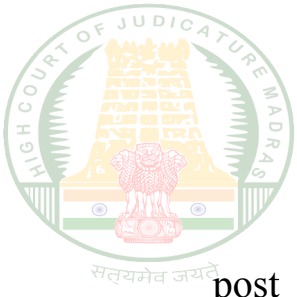


W.P.No.6980 of 2025

WEB COPY

a representation to the respondent on 12.03.2024 requesting permission to provisionally partake in the Physical Certificate Verification and counselling scheduled on 18.03.2024. However, the said request was not accepted. Therefore, the petitioner is before this Court.

7. The respondent had filed a counter *inter-alia* denying the petitioner's claim. They would submit that the very notification had stated that recruitment was by transfer from among the holders of posts of Junior Assistant /Assistant in the Tamil Nadu Ministerial Service/Tamil Nadu Judicial Ministerial Service. The educational qualification have also been clearly prescribed. The respondent would submit that, in paragraph 5 (B) of the Notification, it was clearly mentioned that the applicant should possess the service qualification as on 01.08.2022. Though the petitioner has the requisite five years experience, he was not holding the post in the Tamil Nadu Ministerial Service as prescribed in the Special Rules governing the post of Assistant Section Officer but was holding the

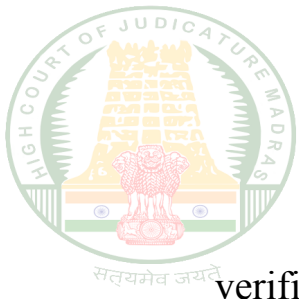


W.P.No.6980 of 2025

WEB COPY

post of Forester. This was discovered only after the onscreen certificate verification and therefore, he was not called for the physical certificate verification.

8. The learned counsel for the petitioner would submit that he was directly recruited as a Junior Assistant in the Tamil Nadu Ministerial Service by the respondent on 03.07.2014. His service was regularized with effect from the initial date of appointment and he was promoted to the post of Assistant in which capacity he served from 07.09.2017 till 31.05.2020. The learned counsel would submit that on 01.06.2020, he was appointed to the post of Forester by transfer in which post he has been working and his probation is yet to be declared. Pursuant to the notification dated 23.08.2022 issued by the respondent, the petitioner had possessed all the requisite qualification and he was permitted to participate in the written examination in which he has secured an overall rank of 17 and the communal rank of 3. His name is also featured in the list of candidates who have been admitted for onscreen certificate

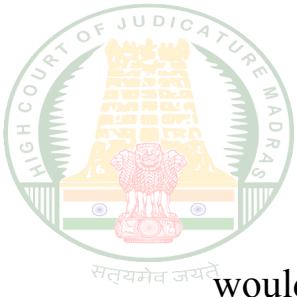


W.P.No.6980 of 2025

WEB COPY

verification. The petitioner had uploaded all the documents including the No Objection Certificate. However, his name has not been included in the physical verification of certificate on the ground that he is presently working as a Forester and therefore, not eligible as on the date of the notification he was not holding the post of Junior Assistant / Assistant. He would submit that his original recruitment was that of a Junior Assistant and he has been thereafter promoted as Assistant from 2014 till 2020 he was holding the post of Junior Assistant/Assistant and therefore, Rule 12(c) of the Tamil Nadu Services Conditions of Service Act, he was eligible for appointment.

9. The learned counsel appearing for the respondent would submit that the petitioner, on the date of the notification as well as on the date of the examination, was not holding the post of Junior Assistant /Assistant in the Tamil Nadu Ministerial Service/ Tamil Nadu Judicial Ministerial Service but was holding the post of Forester which is not a post prescribed in the notification. She



W.P.No.6980 of 2025

WEB COPY

would further submit that the Hon'ble Supreme Court, in the judgment reported in ***(2020) 19 SCC 430 [State of Tamil Nadu represented by its Secretary Vs. G.Hemalatha]***, had held that the High Court, in exercise of its powers under Article 226 of the Constitution of India, cannot relax or modify the instructions issued by the Public Service Commission. She would also rely on the judgment reported in ***2006 3 CTC 449 [Vennila Vs Tamil Nadu Public Service Commission]*** wherein the Bench had observed that the terms and conditions of instructions to candidates and the information brochure have the force of law and have to be strictly complied with. Therefore, he would submit that the notification had invited applications from among the holders of the post of Junior Assistant / Assistant in the Tamil Nadu Ministerial Service/Tamil Nadu Judicial Ministerial Service. Since the petitioner was not holding either of the prescribed posts, and the post of Forester does not form part of the Tamil Nadu Secretariat Service Rules, he was not entitled to be considered.



W.P.No.6980 of 2025

WEB COPY

10. Heard the learned counsels on both sides and perused the materials available on record.

11. The admitted fact is that the petitioner was originally recruited to the post of Junior Assistant on 03.07.2014 and was subsequently promoted as Assistant and had continued in the said post till 31.05.2020. On 01.06.2020, the petitioner was appointed to the post of Forester by way of recruitment by transfer. The probation for the said post is yet to be declared. It is also an admitted fact that the petitioner possesses the educational qualification and five years experience in drafting. The only ground on which his eligibility has been questioned is that on the date of the notification and the written examination he was holding the post of Forester. Section 12 of the Tamil Nadu Government Servants (Conditions of Servants) Act and the proviso thereto would read as follows:

“12. Members absent from duty.

- The absence of a member of a service from duty in such service, whether on leave, or on foreign



WEB COPY



W.P.No.6980 of 2025

service or on deputation or for any other reason and whether his lien in a post borne on the cadre of such service is suspended or not, shall not, if he is otherwise fit, render him ineligible in his turn,

(a) for re - appointment to a substantive or officiating vacancy in the class, category, grade or post in which he may be a probationer or an approved probationer;

(b) for promotion to a higher category in such service;

(c) for appointment to any substantive or officiating vacancy in another service for which he may be an approved candidate, as the case may be, in the same manner as if he had not been absent. He shall be entitled to all the privileges in respect of appointment, seniority, promotion and appointment as full member which he would have enjoyed, but for his absence, subject to his completing satisfactorily the period of probation on his return;



(d) for appointment to any substantive or officiating vacancy in another service, if according to the provisions governing appointment to such other service

(i) he is entitled to such appointment; and

(ii) the normal method of recruitment to such other service is by transfer from the service of which he is a member or any class or category thereof:

Provided that a member of a service who is appointed to another service outside his regular line and is continuing in that service beyond five years shall not be considered for promotion or for appointment by recruitment by transfer to a higher post in his regular line even though he is otherwise qualified for such promotion or appointment, unless he returns to the former service and puts in a fresh service for a period of not less than one year in the former service.”

12. The proviso to Section 12(d) states that if a government servant has been continuing in the service in the other service to which he has been transferred for over 5 years, and he shall not be



W.P.No.6980 of 2025

WEB COPY

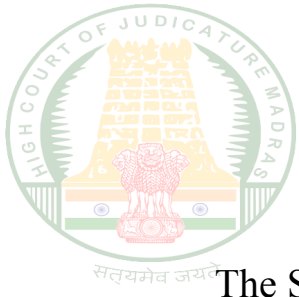
considered for promotion in the service from which he was transferred. In the case on hand, the petitioner was originally recruited in the Tamil Nadu Ministerial Service and transferred to the post of Forester in the year 2020 and as on the date of the notification, he had not completed five years in the post of Forester and nor was his probation declared.

13. Therefore, in the light of the provisions of Section 12(c) and the proviso to Section 12(d), the petitioner is very much eligible for consideration. Accordingly, the writ petition is allowed as prayed for. No costs. Consequently, connected miscellaneous petitions are closed.

26.08.2025

Index: Yes/No
Speaking order/non-speaking order
Neutral Citation: Yes/No
srn

To



W.P.No.6980 of 2025

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The Secretary,
Tamil Nadu Public Service Commission,
Public Service Commission Road,
Park Town,
Chennai-600 003.



WEB COPY



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