



W.P.No. 12435 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Dated : 24.04.2025

CORAM:

THE HONOURABLE MR JUSTICE C.V. KARTHIKEYAN

W.P.No.12435 of 2024 and
W.M.P. Nos.13573 and 13574 of 2024

P. Mageswari
D/o. Periyasamy

... Petitioner

vs

1. The Secretary to Government,
Personnel and Administrative Reforms Department,
Government of Tamil Nadu
Secretariat, Fort St. George
Chennai 600 009
2. The Secretary
Tamil Nadu Public Service Commission
Frazer Bridge Road
VOC Nagar, Park Town
Chennai 600 003.
3. The Director,
Directorate of Geology and Mining Department,
Government of Tamil Nadu,
Thiru Vi ka Industrial Estate,
Guindy, Chennai 600 032.



W.P.No. 12435 of 2024

WEB COPY

4. The Secretary,
Human Resource Management Department,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai 600 009.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 2nd respondent to include the name of the petitioner in the provisionally selected list in the category of BC (OBCM) enable her for the appointment as Assistant geologist as per the rules and regulations and to the notification No.11/2023 dated 07.02.2024.

For Petitioner : Mr. R. Balaramesh

For Respondents : Mr. V. Nanmaran
Additional Government Pleader
for R1, R3 and R4.

Mr.P.J. Rishikesh
For R2 (TNPSC standing counsel)

ORDER

This Writ Petition has been filed in the nature of a Mandamus seeking a direction against the second respondent to include the name of the petitioner in the provisionally selected list in the category of BC(OBCM) to enable her for the appointment as Assistant Geologist in



W.P.No. 12435 of 2024

accordance with Rules and Regulations consequent to the notification

WEB CONTENT No.11/2023 dated 07.02 .2024.

2. In the affidavit filed in support of the Writ Petition, it had been contended that the petitioner had completed her Bachelor's degree in Geology in the year 2017 at University of Madras and also completed her Master's degree of Science in Geology at University of Madras in the year 2019. She belongs to BC(OBCM) community. The second respondent had issued an advertisement No.660 on 25.05.2023 and published notification No.11 of 2023 calling for applications for direct recruitment to fill 40 Assistant Geologists in the Combined Geology Subordinate Service Examination. The petitioner had applied for that particular post. It had been stated that the petitioner had requisite educational qualification to be considered for the said post. She also participated in the examination which was held on 18.08.2023. She had obtained 262.50 marks. She had passed the examination. She also participated in the oral test and secured 31.50 marks. The rank list was then published by the second respondent on 24.01.2024. The petitioner had obtained a total of 294 marks and had been placed in Rank No.54.



W.P.No. 12435 of 2024

3. It had been contended that the distribution of vacancies for the communal roster had also been notified for the said post. It had been further stated that the candidates who had obtained the first nine ranks, were considered as the meritorious candidates and it is the contention of the petitioner that those who had secured the first nine ranks should be fitted in within the 31% reservation which is exclusive for those who had been considered as meritorious and should be fitted in with that particular category.

4. It had been stated that one candidate R. Akshaya with Registration No.101001694 had obtained fourth rank in the overall rank list. It is the contention of the petitioner that the said candidate should have been placed in the 31% merit list, but, however, the said candidate was placed under GT(W) quota by the second respondent. Since that particular candidate was placed under GT(W) quota, the petitioner stood ousted and was not selected under the category of GT(W), though she was eligible as she belonged to BC(OBCM) community.



W.P.No. 12435 of 2024

WEB COPY

5. A justification was made by the second respondent in their counter affidavit, wherein in paragraph No.8, they had stated as follows:

"Due to non availability of the Differently Abled (HH/HI) Women candidate in the overall eligible candidates ranking list, the Men candidate has been selected as substitute as per Section 26(5) of the Act 2016, for the above GT(W) HH/HI vacancy."

The learned Standing Counsel for the second respondent had placed reliance on the order of a learned Single Judge of this Court in W.P.No.6201/13 batch (**M.Satheesh Kumar vs. State of Tamil Nadu, rep. by its Secretary to Government, Personnel and Administrative Reforms Dept., Chennai ~ 600 009**) dated 07.09.2022 and placed his specific reference to paragraph No.39 which is as follows:

"39. The respondents would first arrange the candidates in the Open Category strictly in the order of merit, which would be 31% of the total vacancies for the selection in question. The list aforesaid would be arranged irrespective



W.P.No. 12435 of 2024

WEB COPY

of the caste or the category, but going strictly by the merit, i.e., whoever has obtained more marks would find place in the first list. After preparing the first list of Open Category, the respondents would come out with the second list to provide social reservation to the reserved category vertically. While arranging reservation for the socially backward classes, the respondents would not take into account the number of candidates who find place in the first list of open category in order of their own merit, rather the vertical reservation would be from the candidates next in the queue in the order of merit of their own social reservation category, ignoring those candidates finding place in the first list of Open category. After arranging the second list for giving social reservation, the respondents would then provide horizontal reservation, which may be to female candidates, disabled person, etc. The horizontal reservation would be arranged after counting the women candidates finding place in the vertical list of her own category, for illustration a Scheduled Caste female candidate. For arranging horizontal reservation for



W.P.No. 12435 of 2024

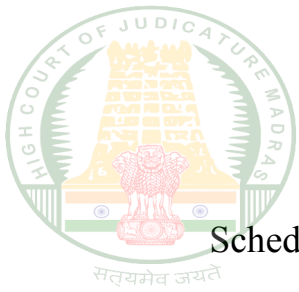
WEB COPY

Scheduled Caste women, a female candidate finding place in the list of Scheduled Caste would be counted towards their reservation and only in case of shortfall, they would be given benefit of female reservation in the manner illustrated by the Apex Court."

6. It is contended on behalf of the second respondent that the second respondent had strictly followed the stipulations as provided under Section 26 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 (hereinafter referred to as 'the Act'). A specific reliance was made on Section 26 (4) of the said Act. The said provision is as follows:

"Section 26 : Appointment of Women - (1) Women alone shall be appointed to post in any institution or establishment specially provided for them.

(4) Selection for appointment under this Section shall be made in the order of rotation specified in Schedule VIII."

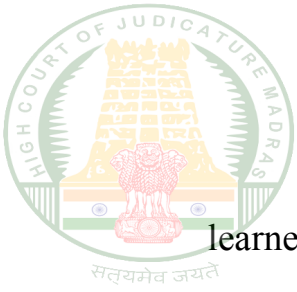


W.P.No. 12435 of 2024

WEB COPY

Schedule VIII which had been mentioned in subsection 4 of Section 26 of the Act had been pointed out by the learned Standing counsel for the second respondent who stated that so far as this particular selection is concerned, the respondents had applied rotation and stated that the rotation would start from turn No.65 and proceed upto turn No.93. It had been pointed out that in Serial No.71, a woman candidate would have to be filled. Serial No.71 is GT(W)HH/HI, which would imply general turn woman with hearing impaired. Thereafter, in Serial No.81 it is GT(W). It is contended in the counter affidavit that the candidate mentioned by the petitioner, R.Akshaya had been filled in GT(W) though she had got fourth rank. She was placed under the specific inter special reservation of General Turn Woman and she was not placed in the 31% merit list.

7. The respondent had tried to justify the same by claiming that she had been correctly fitted and that even under the 31% reservation, the respondent would have to fit in the rotation as provided under Schedule VIII to subsection 4 of Section 26 of the Act. But, however, that fitment runs contrary to the very judgment relied on by the respondents and paragraph No.39 which had been extracted above and forwarded by the



W.P.No. 12435 of 2024

learned counsel for the second respondent. The first portion of the paragraph 39 is again extracted.

"39. The respondents would first arrange the candidates in the Open Category strictly in the order of merit, which would be 31% of the total vacancies for the selection in question."

A plain reading of the same would show that the respondents should have first arranged the candidates in the open category strictly in accordance with merit which would be 31% of the total vacancies and in that 31%, a list should be arranged irrespective of the caste or the category but going strictly by merit and that whoever had obtained more marks would find place in the first list. R. Akshaya, Sl. No.0101001694 must have been placed in that particular merit list of 31%. She had not been placed in that list and she had been brought down and placed in the General Turn Woman Reservation List. This is not proper and not the correct manner under which 31% reservation should have been applied.



W.P.No. 12435 of 2024

WEB COPY

8. The learned counsel for the petitioner had placed reliance on the judgment of the Hon'ble Supreme Court in the case of ***The State of Tamil Nadu and others vs. K. Shobana and others*** reported in **2021 4 CTC paragraph 211** which lays down the law of the land. The respondents have no other option but to follow the said judgment. They cannot claim to be an independent agency who can function outside the purview of the law. The instructions given in the counter affidavit are condemnable and the instructions given to the learned counsel is to be rejected by this Court. By no stretch of imagination could a rank holder, who had got fourth rank in the merit and to be fitted in the reservation list of 31%, not be fitted in accordance with merit. It may not be proper on the part of this Court to upset the selection but certainly the petitioner has a legitimate expectation to be selected.

9. It is contended that the selection process had been completed. But, once it is found that there is a deliberate and malicious intention behind the selection process by ousting the petitioner and including a candidate who had secured fourth rank in the merit in the reservation category and not fitting her in the 31% merit list, naturally the Court will have to step in and grant necessary relief to the petitioner. This Writ



W.P.No. 12435 of 2024

Petition stands allowed. A direction is issued to the second respondent

that owing to their own fault, may be deliberate or unknowing but still without following the Rule of Law as laid down by the Hon'ble Supreme Court in the case of *The State of Tamil Nadu vs. K. Shobana* reported in *2021 4 CTC paragraph 211 (cited supra)*, the second respondent must accommodate the petitioner and must declare that she had been selected and include her name in the selected list in the category of BC(OBCM) and appoint her as Assistant Geologist in accordance with notification No.11 of 2023 dated 07.02.2024. The Court could very well have set aside the entire selection list but this would have upset one further candidate. But in view of the law laid down and since selection has been made by the second respondent without adhering to the Rule of Law as laid down by the Hon'ble Supreme Court, the Court must grant an opportunity to the petitioner to discharge public service by being selected and appointed as Assistant Geologist. The second respondent must have to work out their ways to include the petitioner in the selection list category. Necessary orders in that regard must be passed within a period of three weeks from the date of receipt of a copy of this order.



W.P.No. 12435 of 2024

10. With the above directions, the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

24.04.2025

Internet : Yes / No

Index: Yes / No

Speaking order / Non speaking order

Bga

To

1. The Secretary to Government,
Personnel and Administrative Reforms Department,
Government of Tamil Nadu
Secretariat, Fort St. George, Chennai 600 009

2. The Secretary
Tamil Nadu Public Service Commission
Frazer Bridge Road
VOC Nagar, Park Town, Chennai 600 003.

3. The Director,
Directorate of Geology and Mining Department,
Government of Tamil Nadu,
Thiru Vi ka Industrial Estate,
Guindy, Chennai 600 032.

4. The Secretary,
Human Resource Management Department,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai 600 009.

12/13



WEB COPY



W.P.No. 12435 of 2024

C.V. KARTHIKEYAN, J.

bga

W.P.No.12435 of 2024 and
W.M.P. Nos.13573 and 13574 of 2024

24.04.2025