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W.A.No.2510 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2025

CORAM :

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.A.No.2510 of 2025

1. Government of Tamil Nadu
Rep. by its Secretary
Finance Department, Secretariat
Chennai – 600 009.
 2. Government of Tamil Nadu
Rep. by its Principal Secretary
Rural Development and Panchayat Raj Department
Chennai – 600 009.
 3. The Government of Tamil Nadu
The Additional Secretary to Government
Rural Development Department
Chennai – 600 009.
 4. The District Collector
Nagapattinam District. .. Appellants
- Vs.
1. A.Pathy Arokkiyamary
 2. Tamil Nadu Public Service Commission
Rep. by its Secretary
Park Town, TNPSC Road
V.O.C.Nagar, Chennai – 600 002. .. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent, against
the order made in W.P.No.30073 of 2022 dated 19.03.2024.



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For the Appellants : Mr.P.Anandakumar
Government Advocate

For the Respondents : Mr.R.Bharanidharan
Standing Counsel
for R2

JUDGMENT

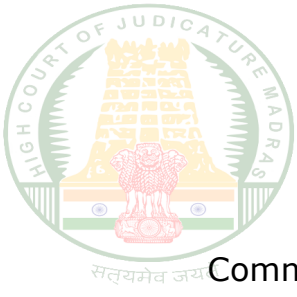
(Judgment of the Court was made by R.SURESH KUMAR, J.)

This intra-Court appeal has been directed against the order passed by the Writ Court dated 19.03.2024 made in W.P.No.30073 of 2022.

2. That the first respondent was the writ petitioner, who was one of the candidates participated in the competitive selection process for Group-IV examination, conducted by the Tamil Nadu Public Service Commission¹, for the post of Junior Assistant-cum-Typist. The writ petitioner/first respondent was selected to the said post on 21.07.2000, however, the result was withheld for want of production of some information with regard to the birth place of the Father of the writ petitioner, as she claims appointment under the Backward Class (Women) category.

3. The said information, according to the TNPSC, had been submitted and the certificate with regard to the Backward Class

¹ In short, "TNPSC"



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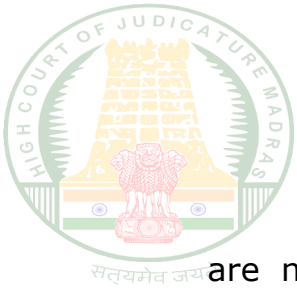
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Community, issued in favour of the writ petitioner, since has to be verified, that verification process went on for some years and ultimately, only in the year 2004, appointment orders have been given to the writ petitioner and after the appointment order was given, she was taken into the Unit, for which she was allotted.

4. In the meanwhile, the cut-off date, that is 01.04.2003, has come in, which is the date the New Pension Scheme, that is the Contributory Pension Scheme, has been implemented and since the Old Pension Scheme was closed by 31.03.2003, the writ petitioner's case was considered only under the New Pension Scheme.

5. In order to rectify the same and to shift the writ petitioner from the New Pension Scheme, that is Contributory Pension Scheme, to the Old Pension Scheme, that is Regular Pension Scheme, the writ petitioner had made a request, which was turned down by the appellant Department vide the order dated 03.03.2022, which was under challenge before the Writ Court.

6. The Writ Court, having considered all factual matrix, found that, once the selection was over and even the Unit, for which posting has to be given to the selectees, was also allotted, if posting



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are not given for any technical reasons and if it is given after 01.04.2003, that is the cut-off date, such delay is caused on the part of either the Selecting Authority or the Appointing Authority and that is not attributable upon the employee. Therefore, if such selection is over well prior to 01.04.2003, such an employee would be entitled to get included in the Old Pension Scheme.

7. At least two decisions in this regard since has been ordered in the case of ***M.Malarkuzhali vs. The State of Tamil Nadu, Rep. by its Principal Secretary, Finance Department and Ors.***² and yet another judgment, following the said decisions already made in these writ petitions, the learned Judge has allowed the present writ petition through the order impugned dated 09.03.2024.

8. Heard *Mr.P.Anandakumar*, learned Government Advocate for the appellants and *Mr.R.Bharanidharan*, learned Standing Counsel appearing for the TNPSC, who is the second respondent.

9. Insofar as the selection of the writ petitioner is concerned, it is not in dispute that the writ petitioner was selected; the Unit was allotted; the posting area also has been identified and

² W.P.(MD)No.8931 of 2018; Dated: 23.04.2018.



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allotment also has been made. The only issue was the withholding, by the TNPSC, before giving posting through the Government and in this context, for want of production of certificate with regard to the claim of the place of birth of the Father of the writ petitioner, the same was delayed.

10. However, based on the communications that have been issued by the TNPSC dated 17.04.2000 and 23.05.2000, the writ petitioner had forwarded the said particulars about the place of birth of the Father of the writ petitioner and a detailed request in this regard has also been given to the Government, that is the Office of the Chief Minister. Those particulars submitted by the writ petitioner, in fact, have been forwarded by the Deputy Secretary to the Government, Personnel and Administrative Reforms Department, to the TNPSC to take action on their end.

11. Despite these correspondences having been made between 2000 and 2002, for one reason or other, for hyper-technical reasons, the TNPSC further delayed in finalizing the appointment to be given to the writ petitioner.



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12. In this context, *Mr.R.Bharanidharan*, learned Standing Counsel appearing for the TNPSC would submit that, since the writ petitioner claims appointment under the Backward Class category, the Backward Class certificate issued in this regard also had to be verified and therefore, that had taken some time. Therefore, after verifying all these certificates only, the final nod was given by the TNPSC to go ahead with the appointment order to be given by the Nodal Department, for which or for whom, the writ petitioner has been allotted to, which took up some time that crossed the cut-off date of 01.04.2003, he contended.

13. Similar arguments were advanced by *Mr.P.Anandakumar*, learned Government Advocate for the appellants, that the delay has been caused at the end of the TNPSC, for which, the Department, that is the Government, cannot be blamed and therefore, the writ petitioner has been rightly placed under the Contributory Pension Scheme, which has been accepted by her and she has already started to make contributions for some years and all of a sudden, she cannot turn around and seek transfer from the Contributory Pension Scheme to the Old Pension Scheme. The learned Government Advocate would submit that the order passed by the Writ Court is erroneous.



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14. We are not impressed with the said submissions either made by the learned Standing Counsel appearing for the TNPSC or the learned Government Advocate appearing for the appellant State for the simple reason that, the selection was already over well prior to the year 2003 and the particulars sought by the TNPSC also had been supplied by the writ petitioner. Merely because the TNPSC has taken enormous time to verify the certificates, that delay cannot be attributed upon the selectee, that is the writ petitioner.

15. By making the delay of giving the appointment and the Right to get pensionary benefits under the Old Pension Scheme since would be at stake, such prejudice cannot be caused merely because of the delay caused by the TNPSC. Therefore, looking from any angle, the view taken by the learned Judge through the impugned order in allowing the writ petition cannot be found fault with.

16. In that view of the matter, we are not inclined to entertain this writ appeal. Resultantly, the appeal fails and hence, the writ appeal is dismissed. However, there shall be no order as to costs. The compliance, pursuant to the order impugned, shall be made by



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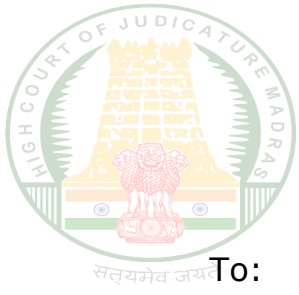
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the appellants within a period of two months from the date of receipt of a copy of this order. Till such time, no coercive steps shall be taken by the writ petitioner. Consequently, C.M.P.No.19524 of 2025 is closed.

(R.S.K., J.) (H.C., J.)
17.09.2025

Speaking Order/Non-Speaking Order
Index:Yes/No
Internet:Yes/No
Neutral Citation:Yes/No

(drm)



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To:

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1. The Secretary
Government of Tamil Nadu
Finance Department, Secretariat
Chennai – 600 009.
2. The Principal Secretary
Government of Tamil Nadu
Rural Development and Panchayat Raj Department
Chennai – 600 009.
3. The Additional Secretary to Government
The Government of Tamil Nadu
Rural Development Department
Chennai – 600 009.
4. The District Collector
Nagapattinam District.
5. The Secretary
Tamil Nadu Public Service Commission
Park Town, TNPSC Road
V.O.C.Nagar, Chennai – 600 002.



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R. SURESH KUMAR, J.
AND
HEMANT CHANDANGOUDAR, J.
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