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W.P.No.27559 of 2025

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 23.07.2025**

**CORAM**

**THE HONOURABLE MR.JUSTICE C.KUMARAPPAN**

**W.P.No.27559 of 2025**

**And**

**W.M.P.Nos.30877 and 30878 of 2025**

A.Geetha Muthulakshmi

... Petitioner

Vs.

Tamil Nadu Public Service Commission  
Rep. by its Secretary,  
TNPSC Road,  
Park Town,  
Chennai – 600 003.

... Respondent

**Prayer:**

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for records relating to the rejection as downloaded from the website of respondent dated 22.07.2025 to quash the same and to consequently direct the respondent to declare the results and to appoint the petitioner as Assistant Public Prosecutor Grade-II pursuant to Advertisement No.695: Notification No.13/2024 dated 13.09.2024.

For Petitioner : Mr.L.Chandrakumar  
For Respondent : Mr.P.J.Rishikesh  
Standing Counsel for TNPSC



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**ORDER**

Mr.P.J.Rishikesh, learned Standing Counsel takes notice on behalf of the respondent. By consent, the writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records relating to the rejection as downloaded from the website of respondent dated 22.07.2025, to quash the same and to consequently direct the respondent to declare the results and to appoint the petitioner as Assistant Public Prosecutor Grade-II pursuant to Advertisement No.695: Notification No.13/2024 dated 13.09.2024.

3.The learned counsel appearing for the petitioner would submit that the petitioner's candidature was rejected on the sole ground that she has not satisfied the conditions stipulated in Clause 4.3 of the Notification dated 13.09.2024. For ready reference, the rejection order is extracted hereunder:

*"You are employed in Government/ Other service and do not fulfil the eligibility conditions specified in paragraph 4.3 of the Notification*



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*No.13/2024, dated 13.09.2024. Hence you are not eligible to be considered for the Main Written Examination."*

4.It is the contention of the learned counsel that the petitioner having sufficient experience of not less than five years practice in Criminal Court and her practice certificate has also been furnished in the format approved by the Department, however, on the sole ground that the petitioner is employed as on the date of notification, the respondent has rejected the petitioner's candidature, which according to the learned counsel, is contrary to the ratio laid down in the order dated 13.12.2018 in W.P.(MD) No.237 of 2014 where the learned Single Judge has held that unless the petitioner's name is removed from the Bar Council, the question of her continuance in practice cannot be constricted. Hence prayed to permit the petitioner to participate in the examination.

5.Per contra, the learned Standing Counsel would invite the attention of this Court to Clause 4.3 of the Notification dated 13.09.2024, where qualification and eligibility criteria has been



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given. For ready reference, the same is extracted hereunder:

#### 4.3.Educational Qualification and Experience:

| Name of the Post                     | Post Code | Qualification and Experience                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|--------------------------------------|-----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Assistant Public Prosecutor Grade-II | 1797      | (i) Must possess B.L., Degree of any University or Institution recognized by the University grants commission for the purpose of its grant;<br>(ii) Must be a member of the Bar <b>and must have had active practice in Criminal Courts for a period of not less than 5 years</b><br>Explanation: The expression “active practice in Criminal Courts” shall include the period of service rendered by a person as a temporary Assistant Public Prosecutor, Grade-II<br>(iii) Must possess adequate knowledge of Tamil<br>Explanation: For this purpose, a person will be deemed to possess an adequate knowledge of Tamil if he has passed the S.S.L.C. Public Examination or its equivalent examination with Tamil as one of the languages studied in the High School Course in Tamil Medium and also S.S.L.C. Public Examination in Tamil Medium or passed the Second Class Language Test in Tamil conducted by the Tamil Nadu Public Service Commission. |

6.It is the contention of the learned Standing Counsel that the word 'active practice' would only denote that the candidate must have five years experience immediately preceding to the date of Notification. In the case in hand, on the date of Notification, the petitioner was employed in Government of Tamil Nadu in Environmental Department on contractual pay. Therefore, she is not



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eligible to participate in the examination. In this connection, the learned counsel relied on the judgment of the Hon'ble Division Bench of this Court in W.A.No.813 of 2024 dated 12.07.2024 and would rely upon paragraph 13. For ready reference, the same is extracted hereunder:

*"13. Though the judgment in Deepak Agarwal (Supra) considered the expression "has been", while the impugned notification uses the expression "have had", we would think it would not make any material difference. While the expression "has been" considered by the Supreme Court in Deepak Agarwal is present perfect continuous, the expression "have had" employed in Notification No.10/2021 is in present perfect tense, which is also used to convey an act / event which started occurring in the past and still happening. The present perfect tense is formed by the present tense of the helping verb "have" followed by a second verb in the past participle form, which we can summarize as follows: present perfect have/has + past participle The present perfect is used to describe actions that have occurred continuously or repeatedly from some time in the past right up to the present*



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*moment (sometimes with the implication that these actions will continue into the future). 4 In other words, the expression "has been" and "have had" both look to an act / event which has commenced in the past and continuing. Applying the above requirement/test, it would be clear that the appellant fails to satisfy the eligibility criteria viz., "he must have had active practice in criminal court for a period of not less than 5 years", inasmuch as even in terms of the certificate furnished by the appellant, it only covers the period 22.09.2010 to 13.09.2016, whereas the requirement was that the candidate ought to be in active practice for a period of not less than 5 years immediately preceding the date of the application which the appellant fails to satisfy thereby rendering herself ineligible.*

7.I have given my anxious consideration to either side submissions.

8.The short point to be considered in the present writ petition is how the sentence "must have active practice in Criminal Courts" is to be interpreted?



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9.It is the submission of the learned counsel appearing for the petitioner that on the date of Notification, it is not necessary that the petitioner must be in active practice and it is sufficient that she must possess five years experience in Criminal Courts preceding to the notification date. Such contention was objected by the learned Standing Counsel and his contention is that the five years practice should be immediately preceding to the date of Notification.

10.As extracted hereinabove in paragraph 13, the Hon'ble Division Bench has clearly explained the sentence "**must have had active practice in Criminal Court for a period of not less than 5 years**" denotes that the candidate ought to be in active practice for a period of not less than 5 years immediately preceding the date of the application. In view of the above Division Bench judgment, no occasion arises to this Court to again explain the relevant sentence once again.

11.Accordingly, the petitioner fails to satisfy such essential requirement. Therefore the rejection order passed by the respondent is well merited and this Court does not find any ground to interfere with the same.



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**C.KUMARAPPAN,J.**  
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12.In the result, the writ petition is dismissed. No costs.  
Consequently, connected miscellaneous petitions are closed.

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Index: Yes/ No  
Speaking Order: Yes/ No  
NCC: Yes/ No

To

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