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W.P.No.27652 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2025

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THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.P.No.27652 of 2025

And

W.M.P.Nos.30977 and 30978 of 2025

S.Poorani

... Petitioner

Vs.

1.The Tamil Nadu Public Service Commission
Rep. by its Secretary, Frazer Bridge,
V.O.C.Nagar,
Park Town,
Chennai – 600 003.

2.The Controller of Examinations,
Tamil Nadu Public Service Commission,
Frazer Bridge,
V.O.C.Nagar,
Park Town,
Chennai – 600 003.

3.The Director of Prosecution,
Office of the Director of Prosecution,
Tamil Nadu Slum Clearance Board,
Annex Building, 1st Floor,
Complex No.5, Kamarajar Salai,
Chennai – 600 005.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to
issue a Writ of Certiorari, calling for the records of the second



W.P.No.27652 of 2025

respondent, the impugned denial of Hall Ticket by the second respondent in its online portal downloaded on 18.07.2025 for the Main Written Examination for the post of Assistant Public Prosecutor Grade-II under Notification No.13/2024 dated 13.09.2024 as arbitrary, illegal, and unconstitutional.

For Petitioner : Mr.S.R.Devaraj
For Respondent : Mr.P.J.Rishikesh for R1 and R2
Standing Counsel for TNPSC

ORDER

Mr.P.J.Rishikesh, learned Standing Counsel takes notice on behalf of the respondents 1 and 2. Since this Court is not inclined to pass any adverse order as against the third respondent, notice to the third respondent is dispensed with. By consent, the writ petition is taken up for final disposal at the admission stage itself.

2.The instant writ petition has been filed challenging the following order:

"You are employed in Government / Other service and do not fulfil the eligibility conditions specified in paragraph 4.3 of the Notification No.13/2024, dated 13.09.2024. Hence you are not eligible to be considered for the Main Written Examination."



W.P.No.27652 of 2025

WEB COPY

3.It is the contention of the learned counsel appearing for the petitioner that though under Clause 4.3 Educational Qualification and Experience, it is stated that one must have had active practice in Criminal Courts for a period of not less than 5 years, while referring to the Practice Certificate in Clause 4.3.4.5, it is only referred as "had active practice in Criminal Courts for a period of not less than 5 years". Therefore, he would contend that if we harmoniously read Clause 4.3 and Clause 4.3.4.5, it only mean that the individual must have 5 years practice preceding to the date of Notification and not immediately preceding to the date of Notification.

4.In order to draw analogy, the learned counsel appearing for the petitioner also invited the attention of this Court to the Notification issued for Civil Judge, where the required qualification is 'must be practising as an Advocate or Pleader in any Court on the date of Notification for recruitment to the post and must have so practised for a period of not less than 3 years on such date', but such things had not been referred in the Notification. Therefore, the petitioner's employment will in no way be a bar as she has got five years of active criminal practice in Criminal Courts and she had also submitted the application.



W.P.No.27652 of 2025

5.The said contention was strongly objected by the learned Standing Counsel and he would submit that the word 'active practice' would only denote that the candidate must have five years experience immediately preceding to the date of Notification. He would further submit that the issue had already been interpreted by the Hon'ble Division Bench of this Court in W.A.No.813 of 2024 dated 12.07.2024. Hence, the issue is no longer res integra and would further submit that this Court also rejected the similar claim of the petitioner in W.P.No.27559 of 2025 on 23.07.2025.

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

7.Though the learned counsel appearing for the petitioner would distinguish the qualification referred to in Clause 4.3 and 4.3.4.5, this Court is of the view that the Hon'ble Division Bench of this Court had already decided identical matter in W.A.No.813 of 2024 on 12.07.2024 and in paragraph 13 has observed as follows:

"13. Though the judgment in Deepak Agarwal (Supra) considered the expression "has been", while the impugned notification uses the expression "have had", we would



WEB COPY



W.P.No.27652 of 2025

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 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



WEB COPY



W.P.No.27652 of 2025

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.

8. According to the interpretation of the Hon'ble Division Bench of this Court, 'must have had active practice in Criminal Courts for a period of not less than 5 years' should be construed as 'the candidate ought to be in active practice for a period of not less than 5 years immediately preceding the date of the notification'. But in the case in hand, admittedly, the petitioner was not in active practice in Criminal Courts, but was in employment. Therefore this Court does not find any merits in the writ petition.

9. In the result, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

25.07.2025

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

6/8



W.P.No.27652 of 2025

WEB COPY

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