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WA.Nos.3338 & 3343/2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.03.2025

CORAM

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE C.SARAVANAN

WA.Nos.3338 & 3343/2024 & CMP.Nos.25894 & 25942/2024

The Tamil Nadu Public Service
Commission, rep.by its
Secretary, TNPSC Road
Park Town, Chennai 1.

... Appellant
in both the appeals

Vs.

1.A.Gerald Paul

... Respondent in
WA.No.3338/2024

D.Hebron

... Respondent in
WA.No.3343/2024

Common Prayer : Writ Appeals filed under Clause 15 of Letters Patent
against the order made in WP.Nos.26133 and 26136/2024 dated 05.09.2024.



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For Appellant in
both appeals

:Mr.P.Kumaresan, AAG assisted by
Mr.I.Abrar Mohamed Abdullah

For Respondents in
both appeals

: Mr.R.Subramanian for
Mr.C.Jagdish

COMMON JUDGMENT

[Delivered by S.S.SUNDAR, j.,]

The above writ appeals have been preferred by the Tamil Nadu Public Service Commission [for brevity 'TNPSC'] against the independent orders of the learned Single Judge dated 05.09.2024 in the writ petitions filed by the writ petitioners in WP.Nos.26133 and 26136/2024 who are respondents herein.

2.Even though the two writ petitions are independently decided, the facts are almost identical and issues are common in both the writ petitions and hence, these two appeals are disposed of by this common judgment.

3.Brief facts that are necessary for the disposal of these appeals are as



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follows:-

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3.1.The petitioner in WP.No.26133/2024 by name A.Gerald Paul had completed his Bachelor degree in Civil Engineering in the year 2021. Whereas, the petitioner in WP.No.26136/2024 by name D.Hebron had completed his Bachelor Degree in Civil Engineering in the year 2020. Both the writ petitioners thereafter joined Master Degree in Environmental Engineering in Anna University during 2021-2022. The course was completed in April 2023 and the writ petitioners also wrote the written examination and results were declared on 07.10.2023.

3.2.The petitioner in WP.No.26133/2024 was given Provisional Certificate on 27.11.2023 and the Provisional Certificate was issued to the petitioner in WP.No.26136/2024 on 09.11.2023.

3.3.The appellant/TNPSC issued a Notification on 13.10.2023, inviting applications for the selection and appointment by direct recruitment of various posts including the post of Assistant Engineer, Tamil Nadu



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Pollution Control Board. It is not in dispute that the writ petitioners had fulfilled the educational qualifications prescribed in the Recruitment Notification issued by the appellant herein on 13.10.2023. The writ petitioners were called for the written examination. When results were declared during May 2024, the names of the respondents herein were also found. On 01.07.2024, the respondents were called upon for certificate verification and were directed to produce all the original records. The respondents herein uploaded the Provisional Certificates in respect of the Post Graduate Degree in Engineering.

3.4. When the respondents were called upon to appear in person, they were informed at that time that they were issued with the Provisional Certificates only on 27.11.2023 and 09.11.2023 respectively. Since Provisional Certificates were issued to the respondents after the Recruitment Notification dated 13.10.2023, their candidature was not considered by the appellant herein. It was pointed out to the appellant that the respondents herein, in order to fulfill the requirements of the Recruitment Notification should show that the results were declared before the date of Notification.



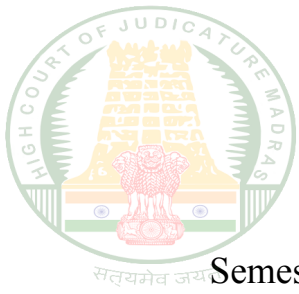
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On the basis of a Certificate issued by the Controller of Examinations, Anna University, to the effect that the results were published on 07.10.2023, long before the issuance of Notification, the respondents herein tried to convince the appellant. However, the appellant did not accept the case of the respondents herein. Hence, the respondents were not permitted to participate in the oral interview only on the ground that the date mentioned in the Provisional Certificates are long after the date of Notification.

3.5.It was in the factual background, the respondents filed the writ petitions for issuance of a writ of mandamus to direct the appellant herein to permit the respondents to participate in the oral interview for the post of Assistant Engineer, TNPCB and to consider the candidature of the respondents as per the Notification dated 13.10.2023.

4.The appellant strenuously contended that the respondents have not possessed required educational qualification as on 13.10.2023, i.e., the date of Notification. It was pointed out by the appellant that in the case of the petitioner in WP.No.26133/2024, the candidate was issued with the 4th



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Semester Mark Sheet only on 14.10.2023 which is after the date of Notification dated 13.10.2023. It is on that basis, the appellant reiterated before the learned Single Judge that the writ petitioner in WP.No.26133/2024 did not have the qualification prescribed for the post when the Notification was issued on 13.10.2023. However, the learned Single Judge examined whether the writ petitioners had completed the course and the results of the Post Graduate Degree were declared before the Recruitment Notification. Learned Single Judge found that even as per the Notification dated 13.10.2023, the results of the examinations should have been declared on or before the date of Notification. The learned Judge further found that the writ petitioners had completed the course in April 2023 as per the Provisional Certificate issued to them. Even though the Provisional Certificates were issued after the Recruitment Notification, the learned Single Judge found that the results of the final semester was published on 07.10.2023 and therefore, the respondents/writ petitioners had acquired eligible qualification as on the date of Notification.

5. Even though the learned Judge is convinced that the



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respondents/writ petitioners had not given any proof regarding the publication of results at the time of submitting the applications, the learned Judge held that the respondents/writ petitioners who had the required qualification as on the date when the Recruitment Notification was issued, cannot be denied appointment since it is not the case of the appellants herein that the respondents did not even possess the necessary educational qualification. Having regard to the conclusion reached by the learned Single Judge, the writ petitions were allowed by directing the appellant herein to consider the candidature of the respondents for selection and appointment to the post of Assistant Engineer in TNPCB. Aggrieved by the same, the above appeals are preferred by TNPSC.

6.The appellant has raised several grounds. The learned Additional Advocate General appearing for the appellant referred to a few discrepancies in the applications submitted by the respondents herein. It was contended that the respondents have produced the Provisional Certificates which would show that the qualification was acquired only after the Notification and therefore, the respondents have not possessed the



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required qualification as on the date of application. It was then contended that the respondents who claimed to have passed Post Graduate degree, failed to prove that the results of the examination was published before the Notification. Thirdly, it was contended that the consolidated mark sheet was issued to the respondents much after the Notification and hence, the orders of the learned Single Judge cannot be sustained. Fourthly, it was contended that as per the Recruitment Notification, the candidates are required to submit the documents to prove the date of final examination taken by them. Much focus was on the date of issuance of Provisional Certificates to the respondents herein to reiterate the contention that the writ petitioners did not possess the qualification prescribed for the post when the Notification was issued.

7.Per contra, the learned counsel appearing for the respondents/writ petitioners referred to the Provisional Certificates issued to the respondents. The Provisional Certificates issued to the respondents clearly indicate that the respondents have passed the examination in April 2023 in First Class with distinction. Apart from that, the learned counsel also pointed out that



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the Additional Controller of Examinations of Anna University has given certificate to the effect that the respondents have completed their M.E. Environmental Engineering [Full time] Degree programme in the College of Engineering, Guindy, Anna University, in April 2023 session and the final semester result of April 2023 session was published on 07.10.2023. The certificates produced by the respondents would clearly show that they had completed the course long before the Notification and the final examination was conducted in April 2023 and results were published on 07.10.2023. Admittedly, in this case, the recruitment Notification was issued only on 13.10.2023.

8.Learned Additional Advocate General for appellant however relied on the judgment of Hon'ble Supreme Court in the case of ***Rakesh Kumar Sharma Vs. State [NCT of Delhi] and Others*** reported in ***2013 [11] SCC 58***. The situation dealt with by Hon'ble Supreme Court in the said judgment is different. The Hon'ble Supreme Court has held that a candidate who fulfils the requisite qualification alone has a as right to be considered for appointment. Since the appellant therein did not possess requisite



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qualification on the last date of submission of application and that, he acquired the qualification subsequently, the Hon'ble Supreme Court held that the appellant therein was ineligible. In other words, the Hon'ble Supreme Court has only reiterated the view that a candidate would acquire qualifications only on the date of declaration of result. Therefore, the judgment relied upon by the learned Additional Advocate General has no relevance.

9.The learned counsel for the respondents relied upon a few judgments which are appropriate to the case on hand. In the case of ***Dolly Chhanda Vs. Chairman, JEE and Others*** reported in ***2005 [9] SCC 779***, the Hon'ble Supreme Court while reiterating the general rule that eligibility qualification must be possessed on the last date fixed for purpose of applying for any course of study or post, has held as follows:-

"7. The general rule is that while applying for any course of study or a post, a person must possess the eligibility qualification on the last date fixed for such purpose either in the admission brochure or in application form, as the case may be, unless there is an



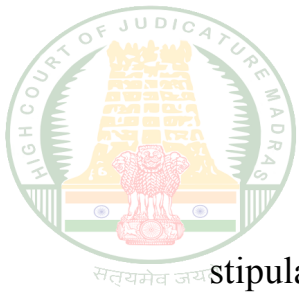
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express provision to the contrary. There can be no relaxation in this regard i.e. in the matter of holding the requisite eligibility qualification by the date fixed. This has to be established by producing the necessary certificates, degrees or marksheets. Similarly, in order to avail of the benefit of reservation or weightage, etc. necessary certificates have to be produced. These are documents in the nature of proof of holding of particular qualification or percentage of marks secured or entitlement to benefit of reservation. Depending upon the facts of a case, there can be some relaxation in the matter of submission of proof and it will not be proper to apply any rigid principle as it pertains in the domain of procedure. Every infraction of the rule relating to submission of proof need not necessarily result in rejection of candidature."

10. Same view was taken by Hon'ble Supreme Court in the case of ***Dheerender Singh Paliwal Vs. Union Public Service Commission [2017 [11] SCC 276]***. The Hon'ble Supreme Court has considered a case where the instructions and information to candidates for recruitment by selection



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stipulated that all the applications must fulfill the essential requirements for the post. It was further mentioned therein that the candidate should mention all the qualifications and experience in the relevant field over and above the minimum qualification and should attach attested/self certified copies of the certificates in support thereof. It is admitted that the appellant before the Hon'ble Supreme Court did not send copies of the certificates relating to essential qualification along with the application, on strict interpretation of the instructions. Hence, it was contended by the UPSC that the appellant did not satisfy the requirements and therefore, his candidature has to be rejected. The Hon'ble Supreme Court has held in paragraph 15 of the judgment as follows:-

"15. In the first place, it must be stated that it is not a case of the appellant not possessing the required essential qualifications but was of only not enclosing the certificate in proof of the added qualification of Zoology as one of the subjects at BSc level, from a recognised University. In the application when once the appellant, marked '1' against Column 9 and thereby confirmed that he possesses the essential qualification, namely, the postgraduate qualification as well as the



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degree level qualification, if at all there was any doubt about any of the qualification, the appellant should have been called upon to produce the required certificate in proof of such essential qualification. In fact in this context, when we refer to the interview proceedings of the appellant as well as two other candidates we find that the appellant produced the original BSc/MSc degree in Zoology and also submitted the attested photocopy of BSc Zoology degree. The outcome of the said interview was that the appellant should be cleared of his selection. Insofar as other two candidates, namely, Miss Babyto and Miss Imrana, are concerned, we find that the production of their caste certificate was not in the prescribed pro forma initially, nevertheless those candidates were allowed to produce the original caste certificate issued by the competent authority and after verifying the same by accepting the attested photocopies of such caste certificates, their cases were cleared. Therefore, when such a course was adopted by the respondent Commission in regard to those two candidates there is no reason why the candidature of the appellant alone was kept in suspension, though he also cleared



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interview process. Even assuming such clearance was not made awaiting the outcome of the order of the Tribunal, when the Tribunal upheld his selection and directed the respondent to issue necessary orders for appointment, in all fairness the respondent Commission should have issued the order of appointment. We are of the view that such an approach of the respondent Commission was unfair having regard to the very trivial issue, namely, a non-production of an added qualification as part of the essential qualification at the degree level which the appellant did possess and for mere asking, the appellant could have readily produced the same through his employer."

11. Recently, a Division Bench of this Court vide judgment dated 20.11.2023 in WA.Nos.682 to 687/2023 [**Tamil Nadu Public Service Commission and Others Vs. U.Kaviyarasan and Others**] also considered a similar issue where the applications of the writ petitioner therein was rejected because the writ petitioner failed to upload the necessary documents. After referring to several judgments of Hon'ble Supreme Court and this Court on similar issues, the Division Bench has held as follows:-



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"25.Further, it is not the case of the appellants that the applicants/respondent candidates were not eligible to apply. As held by the Apex Court in Charles K.Sakaria [supra], Dolly Chhanda [[2005] 9 SCC 779] and Dheerender Singh Paliwal [2017 [11] SCC 276], once the eligibility is satisfied, the furnishing of the proof is only procedural, which cannot take away the right of the applicants on technicalities and by way of interpretation. The object of the examinations and interview is to select the meritorious persons from among the different categories under which they fall. The respondents 2 to 5 in WA.No.684/2023 have sought to be impleaded in the appeal, as they have not been issued with appointment orders, despite being selected. In view of the fact that we have already rejected the appeals filed by the Commission, the question of issuing appointment orders to the respondents 2 to 5 in WA.No.684/2023 does not arise and the directions issued by the learned Judge are to be followed, if not followed already. However, the appellants are duty bound to ensure that the rules of reservation are implemented. As a consequence of dismissal of the appeals, the appellants will have to consider the case



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*of the respondent candidates to be appointed to the post in Combined Engineering Services by following rules of reservation as enumerated in **Saurav Yadav Vs. State of UP and BSNL case [supra]** and on merits along with the case of the respondents 2 to 5 in WA.No.684/2023 within a period of six weeks from the date of receipt of a copy of this judgment.*

26.As held by us in paragraphs 16, 16.1 and 16.2 [supra], there is a significant differences between eligibility and proof of documents. Once the candidates are eligible, their candidature cannot be rejected for submission of wrong documents or insufficient documents without following the due process of providing opportunity. When the instructions permit production of documents, which is clearly distinct from uploading of documents, it must mean that the documents must be produced when they are called for. The clause relating to production of the documents "when called for", when read in conjunction with the "due process" would have to be read to mean that the due process contemplated in the notification requires the appellants to call for the documents before rejection. This stage to call for the documents by



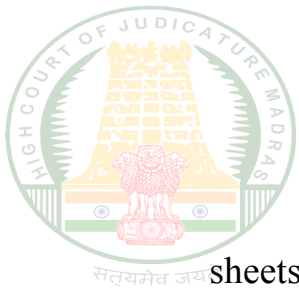
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providing opportunity in compliance with the principle of "due process" would come only after the commission has identified that either the documents are not uploaded or wrongly uploaded. As rightly pointed out by the learned Judge, the appellants must have called for the documents. The date of examination was also revised. Therefore, the appellants could have very well intimated the respective candidates/writ petitioners about the flaws in the documents uploaded and directed them to produce the documents, considering the fact that the writ petitioners are eligible as they satisfy the necessary qualifications."

12.As held by the learned Single Judge, the facts are not in dispute. The only issue raised by the appellant is based on the date of Provisional Certificate. The learned Additional Advocate General though repeatedly contended that the date of Provisional Certificate is the date of completion of degree, this Court is unable to agree with the submissions. In this case, the examinations were conducted in April 2023. The results were published on 07.10.2023, well before the Notification. Therefore, the fact that mark



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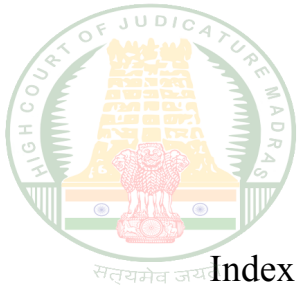
sheets produced by the respondents herein show a later date, cannot be taken to conclude that the respondents had completed their qualifying examination of Post Graduate Degree only after the Notification. The crucial date is the date of publication or declaration of results.

13.This Court, for the reasons stated above, particularly in view of the judgments of Hon'ble Supreme Court reiterating the positions that candidature of eligible candidates cannot be rejected on technicalities and that the respondents have satisfied all the qualification required for the post even on the date of recruitment Notification, is of the view that the orders of the learned Single Judge impugned in these writ appeals are perfectly in order and cannot be assailed.

14.In the result, the writ appeals are **dismissed confirming the orders dated 05.09.2024 made in WP.Nos.26133 and 26136/2024.** No costs. Consequently, connected miscellaneous petitions are closed.

[S.S.S.R., J.] [C.S.N, J.]
07.03.2025

AP



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Index : Yes

Internet : Yes

Neutral Citation: Yes

To

The Secretary, Tamil Nadu Public Service

Commission, TNPSC Road

Park Town, Chennai 1.



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S.S. SUNDAR, J.,
and
C.SARAVANAN, J.,

AP

Common Judgment in
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07.03.2025