



Writ Petition No.33671 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2025

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR. JUSTICE C.SARAVANAN

Writ Petition No.33671 of 2024
and W.M.P.Nos.36452 and 36453 of 2024

B.S.M.Mizpah Selva Priyanga

... Petitioner

Vs.

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

2. The Controller of Examinations,
Tamil Nadu Public Service Commission,
TNPSC Road, Park Town,
Chennai - 600 003.

3. The Secretary to Government,
Home (Courts) Department,
Secretariat, Fort St.George,
Chennai - 600 009.

4. The Registrar General,
High Court, Chennai - 600 104.

... Respondents



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Prayer: The Writ Petition is filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus to call for the records of the respondents 1 and 2 in connection with the publication of provisional list of selected candidates for appointment to the post of Civil Judge in T.N.State Judicial Service in List-OT dated 05.01.2024 pursuant to the Notification No.12/2023 dated 01.06.2023 and quash the same, in so far as the non-selection of the petitioner, and direct the respondents to re-evaluate the answer book of the petitioner in respect of Law Paper-I and award appropriate marks, and consequently, select and appoint the petitioner as Civil Judge in the Tamil Nadu Judicial Service, send her for training and grant her all consequential service and monetary benefits.

For Petitioner : Mr.K.Venkataramani
Senior Counsel
for M/s.M.Muthappan

For Respondent : Mr.R.Bharanidharan
Nos.1 and 2 Standing Counsel

For Respondent : Mr.G.Nanmaran
No.3 Special Government Pleader

For Respondent : Mr.E.Chandrasekaran
No.4

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ORDER

*(Order of the Court was made by **S.S. SUNDAR, J.**)*

The present Writ Petition has been filed to call for the records of the respondents 1 and 2 in connection with the publication of provisional list of selected candidates for appointment to the post of Civil Judge in T.N.State Judicial Service in List-OT dated 05.01.2024 pursuant to the Notification No.12/2023 dated 01.06.2023 and quash the same, in so far as the non-selection of the petitioner, and direct the respondents to re-evaluate the answer book of the petitioner in respect of Law Paper-I and award appropriate marks, and consequently, select and appoint the petitioner as Civil Judge in the Tamil Nadu Judicial Service, send her for training and grant her all consequential service and monetary benefits.

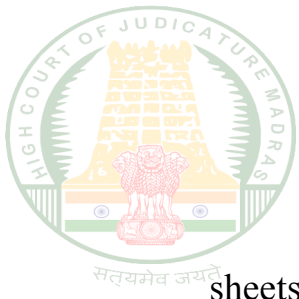
2. The learned counsel for the petitioner submits that the petitioner completed her Higher Secondary in the year 2014 and on merit, she joined the Law Course (5 years) in National Law University, Trichy, and came out successful. She was enrolled as an Advocate in the Bar Council of Tamil Nadu (Enrl.No.2845/2019) and has been practising as an Advocate for the past five years before this Court.



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3. He further submits that the respondents 1 and 2 have issued Notification No.12/2023 dated 01.06.2023 (Advt.No.661) inviting applications from eligible candidates through on-line mode for appointment to the post of Civil Judge in the Tamil Nadu State Judicial Service. The Notification was issued to fill up 245 vacancies in the posts of Civil Judges. The petitioner belongs to B.C community and it is stated that the petitioner is fully qualified for appointment. The petitioner applied for the post and her application was processed and she was permitted to write her written examination. However, her candidature was rejected on the ground that the petitioner had not secured the cut-off marks in the preliminary examination. On verification, the petitioner was informed that she had secured only 34 marks out of 100 marks in Paper-II (Law Paper-I), whereas 35 is the minimum marks required to get a pass. On the ground that the petitioner had not secured the minimum marks as per the Notification, her candidature was not further considered for viva voce. Therefore, the petitioner filed a Writ Petition as she was sure of securing high marks. Before coming to the Court, she filed an application under Right to Information Act, 2005, for furnishing answer



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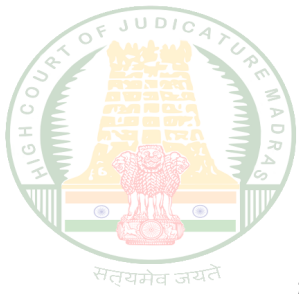
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sheets for Law Paper-I and the statement of marks and the Tamil Nadu Public Service Commission furnished the answer sheets for Law Paper-I and the statement of marks in response to the application filed under the Right to Information Act.

4. It is thereafter, the petitioner found that no marks were awarded to her for Question Nos.3, 10, 16, 35, 37 and 39 and only one mark was awarded to Question No.44 even though that question carries five marks. It was on the basis of the answer sheets, the petitioner approached this Court.

5. This Court, on 22.01.2025, has passed the following order:-

"Since the key answers have been made available now, the learned counsel appearing for the fourth respondent along with the learned Standing Counsel appearing for the Tamil Nadu Public Service Commission shall do the exercise of comparing the answers that have been written by the writ petitioner in respect of Question Nos.16, 35, 37, 39 and 44 and prepare a note in respect of each of the questions by comparing with the key answers, as to whether, the marks awarded or no marks awarded by the examiner in respect of those questions of the writ petitioner are justifiable or not. Such a note be prepared jointly by the learned counsel appearing for the



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fourth respondent and the learned Standing Counsel appearing for the Tamil Nadu Public Service Commission in respect of each of such five questions and be filed before this Court during the next hearing date."

6. Though the counter affidavit is filed denying the averments made in the affidavit filed in support of this petition, on perusal of the answer sheets with the key answers supplied by the respondents, this Court found that the petitioner was not awarded any mark for Question Nos.16, 35, 37 and 39. Even though the petitioner has given the correct answer for Question No.44, which carries five marks, only one mark was awarded. In these circumstances, we found that the petitioner is entitled to an addition of 16 marks in the written examination for Paper-II (Law Paper-I). The petitioner was not selected because she had secured 34 marks which is less than one mark from the minimum marks required.

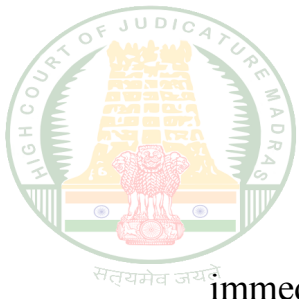


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7. On the admitted facts and on perusal of records, this Court has no hesitation to hold that the petitioner ought to have been called for viva-voce. Since the selected candidates had now been appointed, this Court is not inclined to disturb the selection already made. It is admitted that there are vacancies. Therefore, the respondents are directed to conduct an interview for the petitioner and if she is found qualified by adding 16 marks to Paper-II (Law Paper-I), she should be appointed and should be sent for training within a period of eight (8) weeks from the date of receipt of a copy of this order. The monetary benefits would be calculated from the date on which she would be appointed to the post of Civil Judge.

8. This Court considered the reasons for the delay in approaching this Court. As per the Notification, during the process of recruitment, no application under Right to Information Act can be entertained by TNPSC and that is the reason the application that was filed by the petitioner under the Right to Information Act could not be processed



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immediately and thereafter, as per her request, the answer sheets were furnished to the petitioner pursuant to the application filed under the Right to Information Act.

9. During the course of arguments, the learned counsel appearing for the respondents 1 and 2 found themselves in an embarrassing situation. However, this Court, after going through the answer sheets and key answers, has no other option except to grant relief to the petitioner in exercise of power under Article 226 of the Constitution of India.

10. In the result, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

(S.S.S.R., J.) (C.S.N., J.)
18.02.2025

ASI

Index : Yes / No
Internet : Yes / No
Speaking Order : Yes / No



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To

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TNPSC Road, Park Town,
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