



W.P.No.37815 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

and

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.No.37815 of 2025

and

W.M.P.No.42265 of 2025

S.Samuel Selvaraj
S/o.Mr.Selvaganapathy

... Petitioner

Vs.

1. The Government of Puducherry
Rep. by its Secretary [Home Department]
Chief Secretariat, Puducherry.

2. The Government of Puducherry
Rep. by its Secretary [Law Department]
Chief Secretariat, Puducherry.

... Respondents

Prayer :

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Declaration to declare Rule 26 (Column No.C) of the "Puducherry Law Officers (Appointment and Conditions of Service) Rules, 2021" issued by 2nd respondent insofar as the condition requiring a



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minimum of 7 years active practice in criminal Courts for recruitment as Assistant Public Prosecutor, as arbitrary, unreasonable and violative of Articles 14 and 16(1) of the Constitution of India and to set aside the same and consequently, to direct the respondents to issue fresh notification for the post of Assistant Public Prosecutor within a time bound manner.

For Petitioner : Mr.D.Senthilkumar
For Respondents : Mr.S.Raveekumar
Government Pleader (Puducherry)
Assisted by
Mr.Ramaswamy Meyyappan
Government Advocate (Puducherry)

ORDER

[Order of the Court was made by **P.VELMURUGAN, J.,**]

This writ petition has been filed for issuance of a Writ of Declaration to declare Rule 26 (Column No.C) of the Puducherry Law Officers (Appointment and Conditions of Service) Rules, 2021 [said Rules] issued by 2nd respondent insofar as the condition requiring a minimum of 7 years active practice in criminal Courts for recruitment as Assistant Public Prosecutor, as arbitrary, unreasonable and violative of Articles 14 and 16(1) of the Constitution of India and to set aside the same and consequently, to

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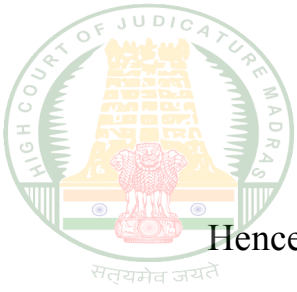
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direct the respondents to issue fresh notification for the post of Assistant Public Prosecutor within a time bound manner.

2. Mr.Ramaswamy Meyyappan, learned Government Advocate, accepts notice for the respondents.

3. The case of the petitioner is that he has completed B.A., B.L. (Hons) Degree at Saveetha School of Law, Poonamallee in September 2018 and subsequently, enrolled as an Advocate with the Bar Council of Tamil Nadu and Puducherry in March 2019. On 26.06.2025, the second respondent issued a notification inviting applications from eligible advocates for appointment to the post of the Assistant Public Prosecutor on contract basis. The petitioner submitted an application on 16.07.2025 to the second respondent and the second respondent issued call letters to the candidates. However, the petitioner did not receive any call letter for the interview which is scheduled to be held from 06.10.2025 to 10.10.2025 at 3.00 p.m. onwards in the chamber of the Secretary (Law), Puducherry. Thereafter, the petitioner approached the second respondent regarding non-receipt of call letter, wherein the petitioner was informed that his application has been rejected on the ground that he had less than 7 years of practice.



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Hence the present writ petition.

WEB COPY 4. Mr.D.Senthilkumar, learned counsel on record for the petitioner submits that under Section 20 of the Bharatiya Nagarik Suraksh Sanhita [BNSS], the qualifications for the post of the Public Prosecutor are defined and a minimum of 7 years of practice as an Advocate is required, however, Section 21 of the BNSS pertains to the appointment of the Assistant Public Prosecutors, wherein no such experience requirement has been prescribed and hence, the action of the second respondent prescribing 7 years of experience for the post of Assistant Public Prosecutor is without authority of law. He further submitted that under Section 19 of BNSS and Section 25 of the Code of Criminal Procedure, 1973, the State Government is empowered to appoint Assistant Public Prosecutors for conducting prosecutions in the Courts of Magistrates in every District and therefore, the imposition of requirement of 7 years of Bar experience for the post of Assistant Public Prosecutor, as mentioned in the impugned notification, amounts to a Subordinate Rule that is *ultra vires* the parent legislation which is arbitrary, discriminatory and violative of the Constitutional principles enshrined under Articles 14 and 16 of the Constitution of India. He further submitted



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that the second respondent issued Government Order Ms.No.11/2022 dated 18.08.2022 along with a subsequent supplement published in Gazette No.34 dated 23.08.2022 which has prescribed a minimum Bar experience of three years for the post of the Assistant Public Prosecutor, however, the second respondent has overlooked this Government Order and relied on the said Rules to prescribe the Bar experience of 7 years requirement for the post of Assistant Public Prosecutor and such an approach is not sustainable in law. Hence, the learned counsel prays this Court to issue a direction to the respondents to issue fresh notification for the post of the Assistant Public Prosecutor.

5. Mr.S.Raveekumar, learned Government Pleader (Puducherry) assisted by Mr.Ramaswamy Meyyappan, Government Advocate (Puducherry) submits that applications are invited from the eligible advocates for the appointment of the post of the Assistant Public Prosecutor on contract basis for appearance on behalf of the Government of Puducherry before the Criminal Courts in Puducherry and Karaikal under the said Rules issued vide G.O.Ms.No.22/2021-LD dated 11.06.2021. He further submitted that the application of the petitioner has been rightly rejected by



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the second respondent in the light of sub-Rule(C) of Rule 26 of said Rules.

WEB COPY 6. Heard the learned counsel on either side and perused the materials available on record.

7. The petitioner has applied for the post of the Assistant Public Prosecutor on 16.07.2025 vide notification dated 26.06.2025. As per notification dated 26.06.2025, applications are invited from the eligible advocates for the appointment of the post of Assistant Public Prosecutor on contract basis for appearance on behalf of the Government of Puducherry before the Criminal Courts in Puducherry and Karaikal under the said Rules issued vide G.O.Ms.No.22/2021-LD dated 11.06.2021. It is seen that a candidate, who possess at least seven years practice at the Bar is eligible to apply for the above post as per said Rules. The petitioner has not challenged the Sub-Rule(C) of Rule 26 of said Rules after the release of the said notification i.e., in the year 2021 till the rejection of his application. Without doing so, the petitioner has filed the present writ petition seeking a direction to issue a fresh notification for the post of the Assistant Public Prosecutor, after the date and time for interview has been fixed by the respondents, that too, on the ground of the petitioner's application has been



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rejected, is not legally sustainable. This kind of attitude of the petitioner cannot be accepted by this Court because the petitioner has not approached this Court with clean hands and therefore, the petitioner is not entitled to the relief as sought for in the writ petitioner.

8. In the result, the Writ Petition is dismissed. However, the petitioner is at liberty to work out his remedy in the manner known to law. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

(P.V,J.) (G.A.M,J.)
03.10.2025

Index : Yes / No
Neutral Citation : Yes / No
Speaking order / Non-speaking order

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To

1. The Government of Puducherry
Rep. by its Secretary [Home Department]
Chief Secretariat, Puducherry.
2. The Secretary [Law Department]
The Government of Puducherry,
Chief Secretariat, Puducherry.
3. The Public Prosecutor,
High Court, Madras.



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