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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-12-2025

CORAM

**THE HON'BLE MR JUSTICE R. SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE SHAMIM AHMED**

**WA No. 3588 of 2025
and
CMP NO. 29529 of 2025**

Tamil Nadu Public Service Commission,
represented by its Secretary,
Public Service Commission Road,
Park Town, Chennai 600003.

..Appellant

Vs

I Prasanth,
S/O. P.Iruthayadhasan,
No.B 2-5, Plaza Verdant Acres, Phase I, Ghandhi
Nagar Society,
Perumbakkam, Chennai 600100.

..Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 26.08.2025 passed in W.P. No.6980 of 2024 by allowing the above Writ Appeal .

For Appellant(s): K.Karthik Jagannath

For Respondent(s): R. Prem NarayanN. Om Prakash,
Counsel For Caveators (T/E)



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Judgment

(Judgment of the Court was delivered by R.Suresh Kumar J.)

This Intra Court Appeal has been directed against the order passed by the Writ Court dated 26.08.2025 made in W.P.6980 of 2024.

2. That the respondent/I.Prasanth was selected and appointed as Junior Assistant in the Tamil Nadu Ministerial Service and in that capacity, he had been working as Junior Assistant from 03.07.2014 to 06.07.2017 and after promotion, he served as Assistant from 07.09.2017 to 31.05.2020.

3. Thereafter, he was posted as Forester in the Forest Department on 01.06.2020, where, his probation has not been declared as he has not completed the service of 5 years as Forester.

4. It is in this context to be noted further that the Appellant/Tamil Nadu Public Service Commission (in short 'TNPSC') has issued a notification in Notification No.21/2022, dated 23.08.2022 for recruitment to the posts of



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Assistant Section Officer/Assistant in Tamil Nadu Secretariat Service included in Group – VA Services from among the holders of the posts of Junior Assistant or Assistant in the Tamil Nadu Ministerial Service/Tamil Nadu Judicial Ministerial Service.

5. The said recruitment process went on at the hands of the appellant TNPSC.

6. The respondent/writ petitioner is holding the Under Graduate Degree of Bachelor of Arts in English Literature. The requisite qualification for appointment to the post of Assistant Section Officer (other than Law and Finance Department) is a Bachelor's Degree and also drafting experience for a period of not less than 5 years in the post of Junior Assistant or Assistant or in both the posts taken together.

7. Apart from this, the notification does not speak anything specifically to us that at the time of making application, the applicant must hold the post of Assistant or Assistant Section Officer either in Tamil Nadu Ministerial Service or Tamilnadu Judicial Ministerial Judicial Service.



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8. Thereafter, since the respondent/writ petitioner has completed 5 years drafting experience as he was holding the post of Junior Assistant from 2014 to 2017 and Assistant from 2017 to 2020, put together more than 5 years and since he had already gained the experience of drafting skill and he is already having the Bachelor's degree of B.A.English Literature, both the qualifications required under the Notification issued in this regard by the TNPSC, has been fulfilled by the respondent/writ petitioner.

9. Therefore in the selection process, the respondent/writ petitioner also participated and a written test was conducted on 18.12.2022, in which, he had secured over all ranking of 17 and in his communal rank, he stood in third position.

10. Twenty five Posts of Assistant Section Officer were available under open competition and apart from that, 17 posts of Assistant Section Officer were also reserved under the communal category of Most Backward Class category, to which the writ petitioner belongs.

11. When that being so, on 04.10.2023, the TNPSC published the list



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of candidates who are admitted for Onscreen Certificate Verification, wherein, the name of the writ petitioner was also included. Hence, he participated in the Onscreen Certificate Verification and he was also directed to upload the No Objection Certificate in the prescribed format through One Time Registration on the TNPSC website upto 04.01.2024. This was also has been complied with by the writ petitioner.

12 Thereafter, the appellant TNPSC published the list of candidates who have been provisionally admitted for Physical Certificate Verification and for counselling for selection to the posts of Assistant Section Officers/Assistant s in the Tamil Nadu Secretariat service on 11.03.2023, however, in the said list, the name of the respondent/writ petitioner was not found.

13. Thereafter, he had given some representation as to why his name has not been included or omitted to be included in the test for physical verification of the certificates. Since, no response had come from the appellant/TNPSC, he had approached the writ court by filing the said writ petition seeking for Mandamus as prayed therein.



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14. The Writ Petition was heard and decided by the Writ Court through the impugned order dated 26.08.2025, whereby, the learned Judge, after having taking into account all the rule position especially under section 12 of the Tamil Nadu Government Servants (Conditions of Servants) Act, 2016, as well as the relevant clauses in the Notification, where, there has been no provision to establish that the applicant must hold the post of Assistant or Assistant Section Officer on the date of application, either from the Tamil Nadu Ministerial Service or Judicial Ministerial Service, has ultimately concluded that by virtue of the provisos (c) and (d) to section 12 of the Tamil Nadu Government Servants (Conditions of Servants) Act, 2016, since he has not completed the 5 years services in the other category i.e. as a Forester in Forest Department, he has got a lien in his parent Department thereby in the Tamilnadu Ministerial Services and since he has already completed 5 years of drafting experience as required under the TNPSC Notification and he is also having Under Graduate Degree which is requisite educational qualification, he is very much entitled to be considered as a successful candidate. Since he has become a successful candidate holding 17th rank in the written test he shall be considered for appointment to the post of Assistant Section Officer in the Tamil Nadu Secretariat Services. That is how the Writ Petition came to be allowed through the impugned order.



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15. We have heard Mr.K.Karthik Jagannath, learned Standing Counsel appearing for the Appellant/TNPSC and Mr. R. Prem Narayan, learned counsel appearing for the respondent.

16. Learned counsel for the appellant has relied upon Rule 5 of the Tamil Nadu Secretariat Service Rules, wherein, the methods of recruitment to fill up the post of Assistant Section Officers in Secretariat Services other than Law and Finance Departments has been mentioned. In the above said Service Rules, the 4th method is stated as ‘ *by recruitment by transfer from the category of Assistants in the Tamil Nadu Ministerial service or Tamil Nadu Judicial Ministerial Service.*’

17. This provision has been interpreted or sought to be interpreted by the appellant TNPSC as projected by the learned counsel appearing for the State that it is by recruitment by transfer from category of Assistant in Tamilnadu Ministerial Service or Tamil Nadu Judicial Ministerial Service. It means the applicant, at the time of selection must be in the Tamil Nadu Ministerial services or Tamil Nadu Judicial Ministerial Services holding the post of feeder category ie., Assistant or Assistant Section Officer.



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18. This interpretation sought to be given by the TNPSC is very strange. The reason being that the Tamil Nadu Secretariat Service Rules is a Subordinate Legislation and it is a settled proposition that any subordinate legislation must yield to the plenary legislation of a Legislature.

19. The Tamil Nadu Government Servants (Conditions of Servants) Act, 2016 is a plenary legislation made by the State Legislature. Therefore the Tamil Nadu Secretariat Service Rules shall surrender to, or inferior to or to submit to the plenary legislation called Tamil Nadu Government Servants (Conditions of Servants) Act, 2016

20. The learned Judge in the impugned order, in fact, extensively quoted section 12 of the said Act, where especially 12(c) and 12(d) as well as the proviso to the said sub sections also quoted. For the sake of clarity, we quote the relevant Rules herein also:

“12. Members absent from duty.

The absence of a member of a service from duty in such service, whether on leave, or on foreign service or on deputation or for any other reason and whether his lien in a post borne on the cadre of such service is suspended or not, shall not,



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if he is otherwise fit, render him ineligible in his turn,

(a) for re-appointment to a substantive or officiating vacancy in the class, category, grade or post in which he may be a probationer or an approved probationer;

(b) for promotion to a higher category in such service;

(c) for appointment to any substantive or officiating vacancy in another service for which he may be an approved candidate, as the case may be, in the same manner as if he had not been absent. He shall be entitled to all the privileges in respect of appointment, seniority, promotion and appointment as full member which he would have enjoyed, but for his absence, subject to his completing satisfactorily the period of probation on his return;

(d) for appointment to any substantive or officiating vacancy in another service, if according to the provisions governing appointment to such other service

(i) he is entitled to such appointment; and

(ii) the normal method of recruitment to such other service is by transfer from the service of which he is a member or any class or category thereof;

Provided that a member of a service who is appointed to another service outside his regular line and is continuing in that service beyond five years shall not be considered for promotion or for appointment by recruitment by transfer to a higher post in his regular line even though he is otherwise qualified for such promotion or appointment, unless he returns to the former service and puts in a fresh service for a period of not less than one year in the former service.”

21. If we look at the proviso, it makes it very clear that a member of the



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service who is appointed to another service outside his regular line and is continuing in that service beyond 5 years shall not be considered for promotion or for appointment by recruitment by transfer to a higher post in his regular line, even though he is otherwise qualified for such promotion or appointment, unless he returns to the former service and puts in a fresh service for a period of not less than one year in the former service.

22. This embargo has been made only in respect of the persons who have completed 5 years of service other than their regular line .

23. In the case on hand, the respondent/writ petitioner though had been posted as a Forester in Forest Department, which is other service, where he has not completed 5 years of service and his probation also was not declared. Therefore, for all purposes, his continuing as a Forester in Forest Department cannot be taken as if he has severed the lien in the regular line of promotion for claiming right over promotional avenue from the Tamil Nadu Ministerial services, unless he comes back within 5 years period.

24. Within 5 years period, since he had made an application to the



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notification issued by the TNPSC and since he has not completed 5 years of service in the Forest department as Forester, if We apply section 12(c) and 12(d) along with the proviso as quoted above herein, certainly there is absolutely no impediment for the respondent/writ petitioner to claim his right of promotion even by way of appointment by transfer from his regular line of promotion .

25. In the case in hand, as per the Tamil Nadu Secretariat service Rules, as we have stated herein, under rule 5(1)(a)(iv) by recruitment by transfer from the category of Assistants in Tamil Nadu Ministerial Service or the Tamil Nadu Judicial Ministerial Service is also one of the methods.

26. This is the method being adopted by the TNPSC. Therefore, it does not disclose anywhere that on the date of notification by TNPSC or on the date of application to be made by the eligible applicant, he must hold the post of Assistant/Assistant section Officer in Tamil Nadu Ministerial Services. Instead, the only criteria to be fulfilled by the candidate is that he must be an Under Graduate Degree Holder and he must have 5 years drafting experience as Assistant or Junior Assistant and Assistant put together. In the case in hand,



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Junior Assistant and Assistant put together.

27. As We stated earlier, the respondent/writ petitioner already have more than 5 years drafting experience, apart from that he is holding educational qualification of Under Graduate Degree. Since he has fulfilled both the qualifications as per the Rule 5 (1)(iv), he is very much eligible and entitled to claim, provided if he has become successful in the limited competitive examination and selection process to be undertaken by the TNPSC.

. 28. When such a limited competition selection process is completed where the respondent/writ petitioner has attempted and stood as 17th candidate even in over all merit of open competition, certainly, his eligibility for recruitment to the post of Assistant Section Officer was denied by giving pedantic interpretation by the appellant/TNPSC.

29. Moreover, the TNPSC is only a recruiting agency. The recruiting agency shall act upon only based on the legislation as well as subordinate legislation. In the case in hand, the Legislation is 2016 Act and Subordinate Legislation is Tamil Nadu Secretariat Service Rules. This Legislation and



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Subordinate Legislation cannot be interpreted pedantically as has been sought to be interpreted by the TNPSC and it is not the job of TNPSC to give such interpretation. The reason being, the Rule making authority is the State Government who made this Rule under Article 309 of the constitution and through such an interpretation otherwise required, it is for the State Government to agitate the issue before the Court of law and ultimately the Court will give a verdict by giving interpretation.

30. Therefore, the attempt now made by the TNPSC is an unwarranted exercise. Therefore, the very appeal filed by the TNPSC itself is frivolous approach in our considered view. The learned Single Judge having considered the rule position as well as the position of law especially under section 12 of the Tamil Nadu Government Servants (Conditions of Servants) Act, 2016 by taking the said rule position in the facts of the case has allowed the writ petition rightly. Therefore, the said approach of the Writ Court does not warrant any interference at the hands of the Division Bench. Therefore We have no hesitation to hold that the impugned order is to be sustained and accordingly, it is sustained. The appeal therefore fails and it is liable to be dismissed. Even though we are of the view that this appeal has to be dismissed with cost, we



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refrain ourselves from awarding the cost. Therefore, the appeal is dismissed without awarding of the cost. Consequently, the connected miscellaneous petition is closed.

[R.S.K.,J.] [S.S.A.,J.]
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Index: Yes : Speaking order
Neutral Citation: Yes

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**R.SURESH KUMAR J.
&
SHAMIM AHMED J.**

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