



WEB COPY **BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 03.04.2025**

**CORAM:**

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN  
AND  
THE HON'BLE MS JUSTICE R.POORNIMA**

**W.A(MD)No.8 of 2020  
and  
C.M.P(MD)No.130 of 2020**

The Chairman,  
Tamil Nadu Public Service Commission,  
Fort.St.George,  
Chennai – 600 009.

... Appellant/Respondent

.Vs.

Sivagami Sundara Nachiyar

... Respondent/Petitioner

**PRAYER:** Writ Appeal filed under Clause 15 of Letters Patent Act praying this Court to set aside the order passed by this Court in W.P(MD)No.25297 of 2018, dated 8.1.2019.

For Appellant : Mr.J.Anandkumar  
Standing Counsel for TNPSC

For Respondent : Mr.N.Mariappan



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**JUDGMENT**

**DR.G.JAYACHANDRAN,J.**  
**AND**  
**R.POORNIMA,J.**

This Writ Appeal is filed by the Chairman, Tamil Nadu Public Service Commission being aggrieved by the order of the learned Single Judge, who partly allowed the Writ Petition filed by the respondent seeking issuance of a Writ of Certiorarified Mandamus to quash the result published on 17.12.2018 containing the provisional list of candidates for the oral examination in the selection process of appointing Agricultural Officer(Extension) in Tamil Nadu Agricultural Service.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.The point involved in this case is that:

In the online application form, the Writ Petitioner entered her date of birth as 08.06.1992 instead of 18.06.1992.The Tamil Nadu Public Service Commission,



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after she clearing her main exams, while verifying her certificates for considering her to invite viva-voce, rejected the candidature of the Writ Petitioner based on the instruction in the notification, since they found that there is an error in the date of birth. Her name was not included in the provisionally admitted list for oral test. The learned Single Judge taking into consideration the dictum laid down by the Division Bench of the Delhi High Court in ***Arkshit Kappor .vs. The Union of India and others made in W.P(C)No.3721 of 2017, dated 31.07.2017*** had held that inadvertent error in wrongly mentioning the date of birth, cannot be a reason to reject her candidature. Hence passed the following order:

*“3.In view of the same, the Writ Petition stands allowed. There will be a direction to the respondent Commission to include the name of the Petitioner in the list of successful candidates in the written examination and conduct a oral interview for the Petitioner before concluding the selection process. No costs. Consequently, connected Miscellaneous Petitions are closed.”*

4.Despite this order, the Tamil Nadu Public Service Commission has not called the Writ Petitioner for an interview. It has proceeded with the selection



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process and release the result of selected candidates on 01.02.2019 without complying with the direction of this Court passed on 08.01.2019. Being aggrieved by the non-compliance of the Court order, the Writ Petitioner has moved a contempt Petition and it was listed for hearing. Thereafter, the present Writ Appeal has been filed on the ground that the candidate who applied for public employment is expected to furnish true and correct particulars about the qualification, category of reservation, age, medium of instruction, physical qualification, other basic qualifications and eligibility criteria. In the instructions, it is clearly stated that incomplete application or application assigning wrong claims or incorrect particulars will be rejected.

5.The learned counsel for the appellant submitted that when Clause 12-K and Clause 14.0 of the Instructions to the Candidate under the caption ‘General Information’ makes it clear that application with incorrect particulars will be rejected and any application submitted through online cannot be modified or rectified after the last date for receiving the application. While so, the Writ Petitioner even if by mistake or inadvertence filed the field meant for age as 08.06.1992 instead of 18.06.1992, she should have sought for the rectification or



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modiciation before the last date of filing the application, which she failed to do.

Only after clearing the main written exam, when she was called for certificate verification, the error was found by the Tamil Nadu Public Service Commission.

Age being one of the criteria, if two candidates secure same marks, the said information is vital in the selection process and therefore, the name of the writ Petitioner was not included in the provisional list for oral test.

6.Relying upon the judgment of the Honorable Supreme Court of India in the case of the ***State of Tamil Nadu and others .vs. G.Hemalatha and another made in Civil Appeal No.6669 of 2019 (Arising out of SLP(C)No.14093 of 2019), dated 28.8.2019***, the learned Standing Counsel or the Tamil Nadu Public Service Commission submitted that violation of the instructions provided in the notification are mandatory and has to be treated seriously and even if the mistake is committed inadvertently, no lenient view can be taken. The learned Standing Counsel for the Tamil Nadu Public Service Commission would further submit that the Supreme Court in the said judgment has categorically held that instructions issued by the Commission are mandatory having force of law and they have to be strictly complied with. Strict adherence to the terms and



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conditions of the notification is of paramount importance and the High Court in exercise of power under Article 226 or the Constitution of India cannot modify or rectify the instruction issued by the Commission.

7.The learned Standing Counsel for the Commission has also circulated a judgment of our High Court in the case of ***P.Prabu and V.Arunkumar .vs. The Tamil Nadu Public Service Commission, represented by is Secretary, Frazer Bridge Roa, VOC nagar, Park Town, Chennai-600 003 in Writ Appeal No.4318 of 2019, dated 11.3.2020*** rendered following the dictum laid down by the Honourable Supreme Court in the ***State of Tamil Nadu and others .vs. G.Hemalatha and another***. The learned Standing Counsel for the Commission also produced a sealed cover disclosing the mark obtained by the Petitioner in the main written examination and the cut-off mark for the respective category to emphasise that the Writ Petitioner and otherwise is not entitled for being invited to include in the provisional list for oral test, since it was short-listed based of 2:1 ratio and the cut-off mark fixed for the MBC/DC community was far high than the mark secured by the writ Petitioner in the main written examination.



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8. As far as the instruction found in the notification, undoubtedly it emphasise that if there is any unclear or incorrect date provided by the candidate, the application will be rejected. Also it provides for modification of the information furnished in the application before the last date for receiving the application. In this case, the Writ Petitioner has given the date of birth as 08.06.1992 instead of 18.06.1992. She has not realised that mistake and rectified it before the last date for receiving the application. She belongs to MBC/Denotified community and the statement furnished to this Court in the sealed Cover reveals that she has secured 283 marks in the main written examination. The cut-off mark for MBC/DC Women is shown as 281 marks. The date of birth of the candidate who secured this mark is mentioned as 15.04.1996. So if the order of this Court had been duly complied with, the Writ Petitioner ought to have been called for the interview, since she has secured more than the cut-off mark taken by the last candidate under MBC/DC women category since Writ Petitioner date of birth is 18.06.1992 which clearly indicates that she is elder to the short-listed candidate under the same category. When we examine the application and the judgment of the Division Bench which has followed the judgment of the Honourable Supreme Court, we find that the Honourable



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Supreme Court in ***Hemalatha's case*** has found that the violation of the instruction was the candidate has used pencil to underline the answers which is prohibited as per the instruction. It is obvious that such an instruction is issued since it may be used as a tool to identify the candidates who has written the examination. Violation of that instruction will give scope to malpractice, hence, the Court has held that it is a violation of mandatory instruction.

9. Similarly, in the judgment of the Division Bench of this Court in the matter of ***Prabu and Arunkumar***, the violation is the suppression of material fact regarding his employment to the query whether he is a Government employee. The Writ Petitioners therein have suppressed their employment and had answered in negative. This again, had warranted and invited rejection of their application because if a candidate is already in Government service, No Objection Certificate required from the present employee.

10. Whereas, in the case in hand, the Writ Petitioner while submitting her on-line application, she has typed his age as 08.06.1992 instead of 18.06.1992. This Court, would visualize that the said mistake is due to fingering



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while typing the date of birth and except fingering mistake, it is not intentional.

By this mistake, the Writ Petitioner is not going to be placed with undue advantage as against any other candidate of the same category. Hence the order of the learned Single Judge directing the Tamil Nadu Public Service Commission to call her for the interview before completing the selection process is sustainable.

11. In this case, on the day the learned Single Judge passed the order that was the last date for the interview, the selection of candidate was not started. It is stated by the learned Counsel for the respondent that immediately after the receipt of the order passed by the learned Single Judge, the Chairman of Tamil Nadu Public Service Commission was furnished with order copy on 10.01.2019 and there was sufficient time for him to call the Writ Petitioner for an interview and consider her candidature for selection, instead he failed to obey the order of this Court and without conducting interview, proceeded with the selection process and released the provisional selection list on 01.02.2019.

12. This Court finds that the appellant ought not to have proceeded with the publishing of the selection list without conducting interview of the Writ



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Petitioner as per the direction of the learned Single Judge. He has thought fit to challenge the order only after completing the selection process and after inviting contempt notice from the Court. The information furnished in the sealed cover also does not justify his conduct for not inviting the Writ Petitioner for the interview. The learned Standing Counsel for the Tamil Nadu Public Service Commission submits that they have filled the vacancies except six vacancies for the special category and therefore, there is no vacancy for MBC/DC women. This contention cannot be placed before the Court after violating the order of this Court. By this submission, the Chairman, Tamil Nadu Public Service Commission try to justify his disobedience of the Court direction. Even if there is no vacancy, the writ Petitioner has to be accommodated by creating a supernumery post.

13. With this observation, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous petition is closed.

**[G.J.,J.] [R.P.,J.]**  
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NCS : Yes/No

Index : Yes / No

Internet : Yes / No

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