

W.P(MD).Nos.23732 & 23508 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 22.01.2025

ORDER PRONOUNCED ON : 21.02.2025

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD).Nos.23508 & 23732 of 2024
and
WMP(MD).Nos.19895, 19896, 20096,
20097 and 20098 of 2024**

WP(MD).No.23508 of 2024

J.Vinoth

....Petitioner

Vs

1.The Principal Secretary
Tourism and Culture Department
Government of Tamil Nadu
Secretariat, Chennai 600 009

2.The Tamil Nadu Public Service Commission
Represented by its Secretary
TNPSC Road
Broadway, Chennai 600 003

3.R.Kaleeswaran

....Respondents

WP(MD).No.23732 of 2024

S.Amuthavalli

...Petitioner

Vs



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

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

3.The Member Secretary
Tamil Nadu State Council for Higher Education
Lady Willington College Campus, Kamarajar Salai
Triplicane, Chennai 600 005

4.The Principal Secretary
Tourism Cultural and Religious Endowments Department
St.George Fort, Chennai 600 009

5.The Registrar
Annamalai University
Annamalainagar Chidambaram 608 002

6.M.Sangeetha (Reg.No.0101001148)
Assistant
Palacode Block Development Officer
Palacode Block
Dharmapuri 636 808

....Respondents

(R6 is impleaded vide Court order dated 22.10.2024)

Prayer in WP(MD).No.23508 of 2024 : This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the second respondent pertaining to its proceeding of selecting list dated 11.09.2024 selecting the third respondent as Tourist Officer pertaining to the Notification No.03/2023 dated 25.01.2023



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and to quash the same as illegal and consequently direct the second respondent to select myself bearing Registration Number 0101001039 based on my qualification.

Prayer in WP(MD).No.23732 of 2024 : This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records of the 1st and 2nd respondents pertaining to the impugned candidates selected provisionally for appointment by direct recruitment to the post of Tourist Officer published on 11.09.2024 for Notification No.03/2023 dated 25.01.2023 quash the same as illegal and direct the 1st and 2nd respondents to recruit me for the aforesaid job of Tourist Officer under MBC (W) category by considering the petitioner's representation dated 27.09.2024 within the stipulated time period.

In WP(MD).No.23508 of 2024

For Petitioner : Mr.SC.Herold Singh

For Respondents : Mr.D.Sasikumar
Additional Government Pleader for R1

: Mr.J.Anandkumar
Standing Counsel for R2

: Mr.T.Lajapathi Roy
Senior Counsel for
M/s.Roy & Roy Associates for R3

In WP(MD).No.23732 of 2024

For Petitioner :Mr.G.Sakthi Rao

For Respondents :Mr.J.Anandkumar
Standing Counsel for R1 & R2

:Mr.N.Satheesh Kumar
Additional Government Pleader for R3



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: Mr.D.Sasikumar
Additional Government Pleader for R4

:Mr.Karthik Raja
for M/s.Ajmal Associates for R5

: No appearance for R6

COMMON ORDER

These two writ petitions have been filed by two aspirant to the post of Tourist Officers who had applied pursuant to a notification issued by Tamil Nadu Public Service Commission in Notification No.3 of 2023 dated 25.01.2023 challenging the provisional selection list published TNPSC to the post of Tourist Officer published on 11.09.2024.

(A)Factual Matrix:

2.The petitioner in WP(MD).No.23508 of 2024 had successfully completed M.B.A in Hotel and Tourism Management in the year 2022 and he had applied for the above said post. After clearing the written examination, he had appeared for the interview and he had secured 478 marks in the written examination and 54 marks in the interview. However, he was not selected.

3.The petitioner in WP(MD).No.23732 of 2024 had passed M.A in Tourism and Travel Management with Tourism as one of the subjects and she had applied for the said post. He had secured 453.50 marks in the written examination and 54 marks in the interview. However, she was not selected.



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(B).Submission of the counsels:

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4.The grievance of the writ petitioners is that the private respondents in their respective writ petitions, who have been provisionally selected do not possess the required educational qualification as per Notification dated 25.01.2023 and in case, if the provisional selected list is cancelled, they would come within the zone of consideration. According to the petitioners, the private respondents after obtaining post graduate degree, have acquired P.G. Diploma in Tourism. However, P.G.Diploma in Tourism is not an educational qualification prescribed for the post of Tourist Officer either under the Service Rules or under the Notification.

5.The private respondents have not obtained any equivalent certificate from Tamil Nadu State Council for Higher Education prior to the issuance of notification to establish that fact that P.G.Diploma in Tourism Management is equivalent to Diploma in Tourism. Therefore, the private respondents do not possess the required educational qualifications and their appointments have to be quashed.

6.Per contra, the learned Senior Counsel appearing for the private respondents in both the writ petitions had contended that after acquiring P.G.Degree, the selected candidates have obtained P.G.Diploma in Tourism. However, the Diploma in Tourism, is obtained by the candidates who have cleared the higher secondary course. Therefore, P.G.Diploma should always



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be considered to be a higher qualification than the Diploma in Tourism.

WEB COPY 7.Relying upon the syllabus of Annamalai University, the learned Senior Counsel had contended that number of papers and syllabus between two Diplomas are almost the same and therefore, P.G.Diploma Holder should be considered to be having a higher qualification. He had further contended that both the private respondents have secured higher marks than the writ petitioners in their respective category.

8.The learned Senior Counsel for the private respondents further contended that unnecessary allegation which do not pertain to the present writ petitions has been made as against them and therefore, there are no merits in the writ petitions and the writ petitions deserve to be dismissed. The learned senior counsel had further contended that both P.G.Diploma in Tourism and Diploma in Tourism are one year course and the syllabus and the number of papers are one and the same except the fact that eligibility to pursue P.G.Diploma is having U.G.Degree. The petitioners who were not successful in the selection process have challenged the provisional selection list with ulterior motive and malafide intention only to harass the respective respondents.

9.The learned Standing Counsel appearing for TNPSC has contended that though the writ petitioners were not qualified on the date of application, they were called for certificate verification based upon the equivalence G.O.



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(Ms).No.130, Higher Education (K1) Department dated 24.07.2024. Based upon the marks obtained by the candidates, they were ranked and the private respondents were provisionally selected. The writ petitioners having secured lesser marks than the selected candidates cannot raise an objection with regard to the educational qualification of the selected candidates as an after thought. He had further contended that the Diploma in Tourism Management can be pursued by a candidate without having undergone U.G.course. However, P.G.Diploma in Tourism Management can be pursued only after completing U.G.Degree. Therefore, the candidates possessing Diploma in Tourism Management should be considered to have a higher qualification than those possessing Diploma in Tourism.

10.Relying Upon Section 25(b) of the Tamil Nadu Governed Servants (Conditions of Services) Act, 2016 he contended that where a candidate possesses higher qualification or equivalent qualification, he can be considered for appointment. He also relied upon Explanation (ii) to the above said Section 25 and contended that where special rules prescribe a diploma in a particular subject as qualification, then, a degree in that subject should be deemed to be a higher qualification. In the present case, the selected candidates having acquired P.G.Diploma in Tourism should only be considered to be possessing a higher qualification than the Diploma in Tourism.



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11.The learned Standing Counsel appearing for TNPSC had also relied upon a communication addressed by Controller of Examinations, Tamil Nadu Public Service Commission to the Principal Secretary to Government, Tourism, Culture, Religious Endowment Department dated 03.01.2025 seeking clarification from the Government whether P.G.Diploma in Tourism Management is a higher qualification than that of the Diploma in Tourism in the light of Section 25(b) of the Tamil Nadu Government Servants (Conditions of Services) Act, 2016.

12.The Tamil Nadu Public Service Commission has sought further clarification to the effect that whether P.G.Diploma in Tourism Management can be considered as equivalent to any Post Graduate Degree with Diploma in Tourism for the post of Tourist Officer pursuant to Notification No.3 of 2023. The Member Secretary, Tamil Nadu State Council For Higher Education has sent a reply on 10.01.2025 to the effect that the eligibility criteria for any post shall be determined based on eligibility, duration, regulation and offering institution for any P.G.Diploma and Diploma Courses as well as the eligibility conditions specified by the recruiting agency.

13.Relying upon the above said letter, the learned counsel for TNPSC had contended that the Higher Education Department has not declared that P.G.Diploma in Tourism Management is not equivalent to Diploma in Tourism Management. Hence, he prayed for dismissal of the writ petitions.



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14.I have considered the submissions made on either side and perused the material records.

(C)Discussion:

15.The post of Tourist Officer is governed by Special Rules for the post of Tourist Officer in Tamil Nadu General Services. As per the Special Rules, the prescribed educational qualification for the post of Tourist Officer is Post Graduate Degree in Travel and Tourism or any Post Graduate Degree with one subject on Tourism or any Post Graduate Degree with M.Phil in Tourism or any Post Graduate Degree with Diploma in Tourism. The same educational qualification is reflected in the notification issued by TNPSC in Notification dated 25.01.2023.

16.As per instructions, in Clause 5(B)-Note (II), if any applicant claims equivalence of qualification to the prescribed qualification he should upload and submit evidence for equivalence of qualification, in the form of Government Order issued on or before the date of this notification, and submit it along with the online application, failing which, their application will be summarily rejected after due process.

17.In the present case, selected candidate namely R.Kaleeshwaran possesses M.B.A with P.G.Diploma in Tourism. Another selected candidate M.Sangeetha possesses a P.G.Degree with P.G.Diploma in Tourism.

Therefore, it is clear that both the selected candidates are claiming



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equivalence qualification as per Clause – B(1)(iv) namely any Post Graduate Degree with Diploma in Tourism. The selected candidates do not fall under any of the other three educational qualifications.

18.The issue now that arises for consideration is whether the prescribed qualification of Diploma in Tourism is equivalent to Post Graduate Diploma in Tourism Management which has been acquired by selected candidates.

19.According to the learned Standing Counsel for TNPSC, P.G.Diploma in Tourism should be treated as a higher qualification because it is pursued after obtaining U.G.Degree. On the other hand, the Diploma in Tourism is pursued after higher secondary course. He had relied upon Section 25(b) of Tamil Nadu Government Servants (Conditions of Service) Act, 2016.

20.The learned Senior Counsel appearing for the private respondents had relied upon the number of papers, duration of the course and syllabus of both P.G.Diploma and the Diploma courses to contend that both are equal.

21.Though a clarification was sought for by TNPSC on 03.01.2025 from the Tourism Department with regard to the equivalence of P.G.Diploma to Diploma in Tourism, the Higher Education Council has not given any positive reply on 10.01.2025. It has only stated that it depends upon various factors. Therefore, it is clear that so far, the competent authority, namely Tamil Nadu State Council for Higher Education has not declared that P.G.Diploma in Tourism Management is equivalent to Diploma in Tourism. In



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such circumstances, this Court cannot compare the syllabus, number of papers and the duration of the course and arrive at a conclusion that P.G.Diploma in Tourism Management is equivalent to Diploma in Tourism or it is a higher qualification.

22.Even as per Clause 5(B)-Note(ii) any one of the applicant claiming equivalence of the prescribed qualification should submit such equivalence qualification in the form of Government Order on or before the date of notification. In the present case, no such Government Order has been issued prior to the date of notification by the competent authority namely Tamil Nadu State Council for Higher Education declaring that both are equal.

23.The Hon'ble Supreme Court in a judgment reported in **(2009) 1 SCC 610 (Guru Nanak Dev University Vs.Sanjay Kumar Katwal & Anr.)** has held that equivalence is a technical academic issue and it cannot be implied or assumed. The Hon'ble Supreme Court had further held that any decision of the academic body of the University relating to equivalence should be by a specific order or resolution, duly published.

24.The Hon'ble Supreme Court in a judgment reported in **AIR 2023 Supreme Court 1943 (Unnikrishnan CV and others Vs. Union of India and others)** in Paragraph No.5 has held that it is trite law that courts would not prescribe the qualification and / or declare the equivalency of a course. The Hon'ble Supreme Court has further held that until and unless rule itself



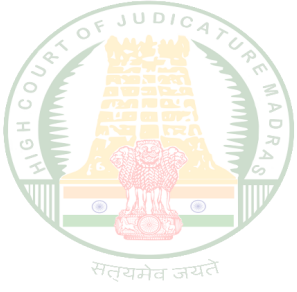
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prescribes the equivalency namely, different courses being treated alike, the courts would not supplement its views or substitute its views to that of expert bodies.

25.In view of the judgments of the Hon'ble Supreme Court, this Court is not in a position to consider the submission of the learned Senior Counsel appearing for the selected candidates that P.G.Diploma is equivalent to Diploma in Tourism, relying upon the brochure issued by the concerned universities.

(D)Conclusion:

26.In view of the above said deliberations, it is clear that the private respondents in both the writ petitions do not possess the mandatory required educational qualification as per Service Rules and the Notification issued by TNPSC on 25.01.2023 for the post of Tourist Officer. The provisional selection list insofar as the private respondents in the writ petitions are concerned, are hereby set aside. The Government and TNPSC are directed to consider the candidature of the writ petitioners for the post of Tourist Officers, if they are otherwise qualified and fall within the zone of consideration.



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WEB COPY 27. With the above said observations, these writ petitions stand allowed to the extent as stated above. No costs. Consequently, connected miscellaneous petitions are closed.

21.02.2025.

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
msa

To

1. The Principal Secretary
Tourism and Culture Department
Government of Tamil Nadu
Secretariat, Chennai 600 009

2. The Member Secretary
Tamil Nadu State Council for Higher Education
Lady Willington College Campus, Kamarajar Salai
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R.VIJAYAKUMAR, J.

msa

Pre-delivery common order made in

W.P.(MD).Nos.23508 & 23732 of
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