

W.P.No.107 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Orders reserved on : 26.04.2024

Orders pronounced on : **18.06.2024**

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHYW.P.No.107 of 2022
and W.M.P.Nos.102, 103 and 104 of 2022

K.Paranthaman

.. Petitioner

Versus

1. The Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road, VOC Nagar,
Park Town,
Chennai – 600 003.
2. The Deputy Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road, VOC Nagar,
Park Town,
Chennai – 600 003.
3. The Secretary to Government,
Department of Personnel and Administrative
Reforms, Fort St. George, Chennai.

.. Respondents



WEB COPY (R3 – Suo Motu impleaded as per order, dated 02.04.2024 in W.P.No.107 of 2022)

Prayer : Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned communication issued by the 2nd respondent in Letter No.4692/PSD.A1/2018, dated 12.11.2021 and to quash the same and consequently, directing the respondents to select and appoint the petitioner to the post of Typist based on Rank Number 5596 as stated in the call letter issued by the 1st respondent in Memorandum No.4692/PSD-A/2018, dated 22.12.2018, with all consequential and other attendant service benefits.

For Petitioner : Mr.G.Sankaran,
Senior Counsel,
Asst. by Mr.S.Nedunchezhiyan

For Respondents : Mrs.G.Hema,
Standing Counsel for TNPSC
for RR-1 and 2

: Mr.Stalin Abhimanyu,
Additional Government Pleader for R3

ORDER

In the various services under the Government of Tamil Nadu namely, Tamil Nadu Ministerial Service, Tamil Nadu Judicial Ministerial Service, Tamil Nadu Secretariat Service etc., there exists a post of Typist in the scale



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of pay of Rs.5,200 – 20,200/- + 2,800 – G.P (PB-1) (PM) (Pre-revised). The
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said post of Typist is to be filled by way of direct recruitment from candidates possessing minimum general educational qualification i.e., candidates who have passed the S.S.L.C Public Examination or its equivalent with eligibility for admission to Higher Secondary Courses of studies or to College Courses of studies. The candidates should also pass the Government Technical Examination in typewriting by Higher / Senior Grade in Tamil and English or by Higher / Senior Grade in Tamil and Lower Grade in English or Higher / Senior Grade in English and Lower Grade in Tamil. The candidates possessing Higher Grades both in Tamil and English will be preferred over the other candidates in that order of preference.

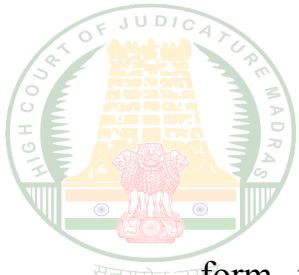
2. While so, by notification No.23/2017, dated 14.11.2017, the first respondent (Tamil Nadu Public Service Commission (hereinafter referred to as 'TNPSC')) advertised for direct recruitment for various posts in all totalling 9351 vacancies. Of that category, 72 posts are Typists and a total



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number of 3463 vacancies were advertised. The method of selection was a written examination consisting of 300 marks with a minimum qualifying mark of 90. The merit list would be drawn up based on the performance in the written examination, duly considering the reservation as applicable. As and when more than one candidate obtains some lowest cut-off mark, then, firstly, the candidate who has a higher qualification will be preferred. If the qualification is also the same, then, the candidate who is higher in age will be preferred. If both qualification and age are also the same, the candidate who applied first for the post would be preferred, which would be based on the application number.

3. The petitioner who is fully qualified to apply for the post of Typist under the reserved category of Scheduled Caste duly applied for the post of Typist under the said qualification. The petitioner possesses the Undergraduate degree of B.A., (Tamil), Post-Graduate degree of M.L.I.S and Post-Graduate degree of M.B.A. However, while filling up the application



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form, there was only one option to upload a Post-Graduate degree in the
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Online application form. The petitioner uploaded the M.L.I.S degree and thereafter, he could not further upload the M.B.A degree.

4. The petitioner's application was found to be in order and he was issued a Hall ticket with registration No.010123227. The petitioner participated in the written examination on 11.02.2018 and obtained 201 marks in the written examination. The petitioner was assigned an overall rank of 6021 and his overall communal mark was 759, as far as the post of Typist is concerned, his serial number was 5596. The petitioner is eligible to be considered under the Scheduled Caste quota as a P.S.T.M (Person Studied in Tamil Medium) candidate and the petitioner is also further to be considered as having the higher qualification of Post-Graduate degree. Since several candidates had obtained 201 marks, among them, if only the petitioner possesses a Post-Graduate degree, he comes within the zone of consideration.



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5. The petitioner was issued with a call letter to attend the certificate verification/counselling. The first respondent concluded that the petitioner's Post-Graduate degree, which is only for a one-year duration, cannot be considered as a valid Post-Graduate degree. The petitioner produced G.O.Ms.No.171, dated 30.09.2014, wherein the Equivalence Committee had concluded that the Post-Graduate degrees in M.L.I.S and M.Sc (Information Science) were equivalent to one another. The petitioner also produced the second Post-Graduate M.B.A degree which is of two years duration. However, no new documents were entertained by the respondent TNPSC and since the respondent TNPSC had to go by the documents already uploaded alone. The petitioner was not considered as possessing a Post-Graduate degree and therefore, was not selected. By the impugned communication dated 12.11.2021, the petitioner was also informed that his Post-Graduate qualification would not be considered. The petitioner was not selected and hence, he is before this Court.



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6. The Writ Petition is resisted by the respondents by filing a counter-affidavit. The material averments are contained in paragraph No.6 in the counter-affidavit which is extracted hereunder:-

" 6. It is further submitted that the petitioner Thiru.K.Paranthaman (Reg. No.010123227) has obtained 201 marks in written examinations, and his Overall Rank is 6021 and Communal Rank is 759 and Serial Number is 5596 for the post of Typist. As per the ranking list, under the category of SCH-M-PGDEG-PSTM the petitioner was provisionally admitted for Certificate Verification / Counselling held on 06.02.2019. During certificate verification held on 06.02.2019, the MLIS degree mentioned in the application of the petitioner as PG degree was found to be one year degree course. The Clause 25 (Explanation-I) (C) of the TAMIL NADU GOVERNMENT SERVANTS (CONDITIONS OF SERVICE) ACT, 2016, reads as follows :-

“(c) a post-graduate degree obtained, after completion of S.S.L.C., Higher Secondary Course and a degree (10+2+3+2 or 3) from any University or Institution, recognized by the University Grants Commission shall be recognized as the qualification.”

As per the above said rule, PG Degree should be of 2 or 3 years course.

Hence, his educational qualification one year/PG Degree in MLIS is not equivalent to PG degree."

Therefore, it is the case of the respondents that a one-year Post-

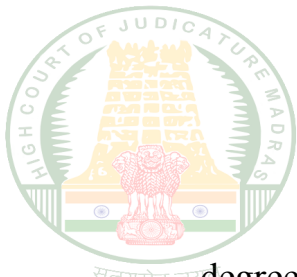


Graduate degree is not a valid Post-Graduate degree and the other Post-
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Graduate degree was not uploaded within the time. The petitioner also did not produce or upload any certificate within the time to prove that his Post-Graduate degree is an equivalent qualification and therefore, even though the petitioner has scored 201 marks, given the large number of candidates scoring 201 marks, if only the petitioner is preferred based on the Post-Graduate qualification, he comes within the zone of consideration and since he did not possess a valid Post-Graduate qualification, he was not selected.

7. Heard *Mr.G.Sankaran*, learned Senior Counsel for the petitioner, *Mrs.G.Hema*, learned Standing Counsel for the respondent TNPSC and *Mr.Stalin Abhimanyu*, learned Additional Government Pleader for the third respondent.

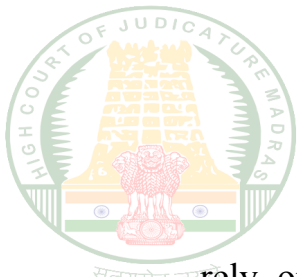
8. *Mr.G.Sankaran*, learned Senior Counsel for the petitioner would submit that firstly, in this case, the petitioner possesses a valid Post-Graduate



degree which is obtained after the Undergraduate degree. The Post-
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Graduate degree of M.B.A. is of two years duration. As on the material date i.e., as on the date of notification, the petitioner therefore possesses the relevant Post-Graduate qualification. The only ground, on which the petitioner was not considered, is that the petitioner did not upload the said M.B.A certificate. It should be seen that the Online application form accepted only one Post-Graduate qualification. This fact is not denied by the respondent TNPSC. When the petitioner had more than one Post-Graduate qualification, he had uploaded the M.L.I.S Post-Graduate qualification at the time of uploading of the documents. In the certificate verification/counselling, the petitioner produced both certificates. Therefore, the respondents ought to have treated the petitioner as possessing a Post-Graduate qualification. On the mere ground of hyper-technicality of not uploading the same, the petitioner's case could not have been rejected.

9. In support of his submissions, the learned Senior Counsel would



rely on the judgment of the Hon'ble Supreme Court of India in ***Dolly Chhanda Vs. Chairman, JEE and Ors.***¹, more specifically, paragraph No.7

to contend that when it comes to the possessing of educational qualification as on the date of the notification, the same cannot be relaxed, however, if it is only concerning the production of proof, the respondents ought to have relaxed the rule and appointed the petitioner. The learned Senior Counsel also relied upon the order of a Division Bench of this Court, dated 19.12.2016 in ***C.Bhavani Vs. The Secretary, TNPSC (W.P.No.42040 of 2016)***, more specifically relying upon paragraph No.6 for the same proposition. The order of the High Court of Andhra Pradesh in ***The Union of India Vs. Guduru Raja Surya Praveen***² is also relied upon. The learned Senior Counsel relied upon the judgment, dated 11.11.2009 of a Division Bench of this Court in ***The Secretary, Tamil Nadu Public Service Commission Vs. M.Chitra and Anr. (W.A.(MD).No.585 of 2009)***, wherein, the Court came to the rescue of the candidate when the community

¹ (2005) 9 SCC 779

² 2015 SCC OnLine Hyd 437



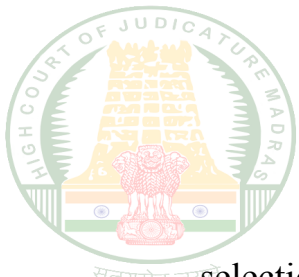
certificate was belatedly issued by the revenue authorities. The learned
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Senior Counsel also relied upon the judgment of the Hon'ble Supreme Court of India in ***Ram Kumar Gijroya Vs. Delhi Subordinate Services Selection Board and Anr.***³, wherein also, the Hon'ble Supreme Court of India emphasized the true import of the right of equal opportunity and came to the aid of the candidate whose certificate could not be uploaded in time. The very same view was taken by this Court in ***Selvi Periyannayagi Vs. The Government of Tamil Nadu***⁴.

10. Per *contra*, Mrs.G.Hema, learned Standing Counsel for TNPSC, placing strong reliance on Clause 25 (Explanation-I) (C) of the *Tamil Nadu Government Servants (Conditions of Service) Act, 2016* to contend that TNPSC, as a recruiting agency, it has to go by the *Act* and the rules if any that are framed. It has no authority either to decide the equivalency of the qualification or relax any qualification considering the fact situation. In a

³ (2016) 4 SCC 754

⁴ 2010 SCC OnLine Mad 1629



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selection involving a large number of candidates, the TNPSC is expected to go strictly as per the notification. Therefore, the recruitment will be based on the rules as advertised in the notification. The selection was to be done as per the marks obtained in the written examination. Since a large number of candidates obtained 201 marks, if only the petitioner has the higher qualification of Post-Graduation, he comes within the zone of consideration. Since the petitioner has applied under that category, considering him as SCH-M-PGDEG-PSTM, he was called for certificate verification. However, his Post-Graduate degree, which was uploaded i.e., M.L.I.S, was only of one-year duration. The *Act* categorically says that it should be either two years or three years in duration. Therefore, his Post-Graduate degree could not be considered. Therefore, he was not selected. The appropriate candidate, who was next in place, has been duly selected and the select list is also forwarded to the third respondent and they have made the appointments. Therefore, the petitioner cannot now belatedly claim an appointment. It is his mistake to have not uploaded the M.B.A. certificate. The TNPSC has no



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discretion to accept a certificate that is not uploaded within the time. In respect of all the candidates, the rule has been strictly enforced. Accepting the non-uploaded certificate from the petitioner alone would be discriminatory. Therefore, she would submit that the impugned communication rightly communicated the said position and as such, there is no merit in the Writ Petition.

11. I have considered the rival submissions made on either side and perused the material records of the case.

12. The petitioner is bound to succeed for two reasons. Firstly, as of the date of notification i.e., as of 14.11.2017, the petitioner possesses a Post-Graduate degree which is obtained after an Undergraduate degree and which is also of two years duration (M.B.A). The only flaw which is committed by the petitioner is that without uploading the said degree since he has yet another Post-Graduate degree (M.L.I.S), he uploaded the same. Therefore, it



is not that the petitioner was not possessing the Post-Graduate qualification,
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but, the petitioner could not upload both the Post-Graduate qualifications. In that view of the matter, as rightly contended by the learned Senior Counsel, as per the dictum of the Hon'ble Supreme Court of India in ***Dolly Chhanda***'s case (cited *supra*), there can be relaxation in the matter of submission of proof.

13. The same view has been consistently taken by this Court in the other judgments in ***C.Bhavani***'s case (cited *supra*), ***The Secretary, Tamil Nadu Public Service Commission Vs. M.Chitra and Anr.***'s case (cited *supra*) and ***Selvi Periyannayagi***'s case (cited *supra*). Therefore, the TNPSC ought to have considered the other Post-Graduate qualification of M.B.A which is of two years duration and consequently, ought to have selected the petitioner in the post of Typist.

14. Even otherwise, the contention of respondent TNPSC is that the

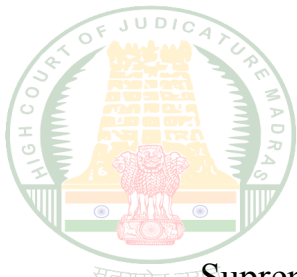


petitioner's qualification of M.L.I.S is not valid as per Clause 25
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(Explanation-I) (C) of the *Tamil Nadu Government Servants (Conditions of Service) Act, 2016* and the said clause is extracted once again:-

"(c) a post-graduate degree obtained, after completion of S.S.L.C., Higher Secondary Course and a degree (10+2+3+2 or 3) from any University or Institution, recognized by the University Grants Commission shall be recognized as the qualification."

15. If one reads the said clause, it would be clear that except for the indication in numerals (10+2+3+2 or 3), the petitioner's qualification is a valid Post-Graduate degree. To be more precise the relevant statute, when it describes the valid Post-Graduate degree in words, does not lay down two years or three years period. However, the numbers 10+2+3+2 or 3 are also given in brackets to provide illustrative clarity. The numerals that are inserted by way of abundant caution cannot add, modify or override the provision itself. Therefore, on a plain reading of the words contained in the statute, it can be seen that the petitioner's M.L.I.S degree is valid. A useful reference in this regard can be made to the judgment of the Hon'ble



Supreme Court of India in *Reserve Bank of India and Ors. Vs. Peerless*
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*General Finance and Investment Company Ltd.*⁵, wherein while construing Section 45 (K3) of the Reserve Bank of India Act, 1934, after finding the inclusive phrase has been added by way of abundant caution, it is held that such phrase cannot restrict the provision and the words in the provision have to be given their natural meaning and paragraph No.25 is extracted hereunder :-

" 25. It is thus evident that the words "in respect of any matters relating to or connected with the receipt of deposits" in Section 45-K(3) confer a wide power on the Bank to issue directions and the said power is not restricted or limited to receipt of deposits only. The amplitude of this power cannot be curtailed by the words "including the rates of interest payable on such deposits and the periods for which deposits may be received" in Section 45-K(3). It is no doubt true that the word 'including' is generally used in extensive sense to bring within the ambit of the provision matters referred to in the inclusive clause which normally would not have been covered by the provision. But that is not always so. Many times the Legislature uses an inclusive phrase to specifically include a matter by way of abundant caution. Having regard to the object and purpose underlying the enactment of Section 45-K, we are unable to construe the words "including the rate of interest payable on such deposits and the periods for which deposits may be

⁵ (1996) 1 SCC 642



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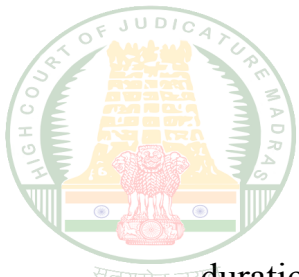


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received” as restricting the ambit of the words “in respect of any matters relating to or connected with the receipt of deposits”, which, in our opinion, must be given their natural meaning as construed by this Court in **Peerless II [(1992) 2 SCC 343 : (1992) 1 SCR 406]** . This means that the Bank has been given the power to issue directions in respect of any matter relating to or connected with the receipt of deposits.”

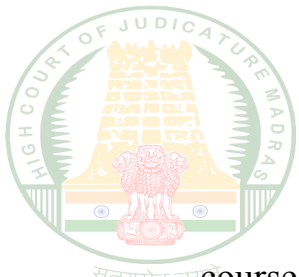
16. Further, it can be seen that the entire purpose of the clause is to implement the dictum of the Hon’ble Supreme Court of India in ***Annamalai University Vs. Secretary to Government and Ors.***⁶, whereby, the Hon’ble Supreme Court of India has held that any qualification of Higher Secondary or its equivalent, cannot be valid unless it is preceded by the valid 10th Standard or its equal qualification. Similarly, an Undergraduate course should be preceded by a Higher Secondary or Pre-University course. A Post-Graduate degree should be preceded by an Undergraduate degree. The purpose of the entire Clause 25 quoted above is only the same. While using numerals, the draftsman has thought about an Undergraduate course of three years duration and a Post-Graduate duration of two years or three years

⁶ (2009) 4 SCC 590



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duration. However, a Post-Graduate degree can be 10+2+3+2, 10+2+4+1, 10+2+5+1, 10+2+3+3 etc. There are also one-year Post-Graduate courses such as Master of Law and Master of Library Science which are valid degrees as per the UGC norms. Therefore, just because the numerals which were mainly intended to clarify S.S.L.C (minimum 10 years of study) + Higher Secondary (minimum two years of study) + Undergraduate + Post-Graduate, the petitioner's M.L.I.S cannot be rejected as an invalid degree for Government Service and such an approach would be a pedantic approach. Therefore, a proper reading of the said clause would be that the Post-Graduate degree holder should have undergone a minimum of 12 years of school education consisting of S.S.L.C equal to 10th Standard or Matriculation etc., + Higher Secondary of two years equal to Pre-University course etc., and thereafter undergone a valid undergraduate degree before joining the Post-Graduate degree. The purpose of the rule is to eliminate the candidates possessing a direct Post-Graduate without even these basic qualifications and it is not concerned with the duration of the Post-Graduate



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course. Therefore, the approach adopted by the respondent TNPSC is an
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incorrect reading of the rule and the petitioner is entitled to succeed on this score also.

17. In the course of the hearing of this Writ Petition, this Court had, by an interim order, dated 02.04.2024, directed the learned Standing Counsel for respondents Nos.1 and 2 to get instructions as to whether, in the event of the petitioner being considered in the Scheduled Caste quota as a P.S.T.M candidate with Post-Graduate degree, will be coming within the zone of consideration for appointment of Typist, to which, the specific instructions have been obtained by the learned Standing Counsel and it is informed across the bar that the petitioner would come within the zone of consideration. The selection process was completed pending this writ petition. In the post of Typist where there are vacancies at any given time, the petitioner can be accommodated in any subsequent vacancy without the challenge being made to the selection and appointment of the next candidate



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and without dislodging the candidate who is selected in the place of the
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petitioner.

18. For the above reasons, this Writ Petition is allowed on the following terms:-

(i) The impugned communication, dated 12.11.2021 bearing Letter No.4692/PSD.A1/2018 shall stand quashed;

(ii) The respondents are directed to appoint the petitioner in the post of Typist on or before 31.07.2024 and the petitioner will be entitled to all the benefits of service only from the date of such appointment including seniority, wages etc.

(iii) There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

18.06.2024

Neutral Citation : yes

<https://www.mhc.tn.gov.in/judis>



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To

1. The Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road, VOC Nagar,
Park Town,
Chennai – 600 003.
2. The Deputy Secretary,
Tamil Nadu Public Service Commission,
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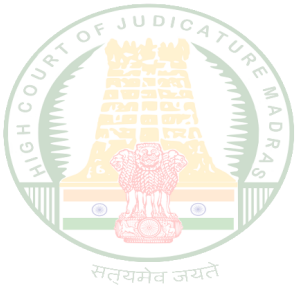


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D.BHARATHA CHAKRAVARTHY, J.

grs

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and W.M.P.Nos.102, 103 and 104 of 2022



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18.06.2024