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W.P.NO.13034 OF 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.05.2024

PRONOUNCED ON : 30.05.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.Nos.13034 & 13038 of 2024 AND

W.M.P.Nos.14198 and 14199 of 2024

1. S.Nithesh
2. M.Raghurham
3. P.Anand Babu
4. A.Jayanthi
5. S.Nagasundaram
6. T.Premkumar
7. C.Senthilvel
8. D.Vaishnavi
9. E.Karthik Nivedan
10. N.Niranjana Devi

... Petitioners
in both W.Ps.

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Human Resources Management(M) Department,
Fort St. George, Chennai – 600 009.
2. The Tamil Nadu Public Service Commission,
Rep. by its Secretary,
TNPSC Road, VOC Nagar,
Park Town, Chennai – 600 003.

... Respondents
in both W.Ps.

Prayer in W.P.No.13034 of 2024: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to G.O.Ms.No.133, Human Resource



Management (M) Department, dated 01.12.2021 issued by the first respondent and the consequential notification No.1 of 2024 dated 30.01.2024 issued by the second respondent and quash the same as illegal and discriminatory and violative of Articles 14 and 16 of the Constitution of India and opposed to Act 40 of 2010 and Section 21A of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 and the two language policy of the State Government insofar as the said Government Order issued by the first respondent and the second respondent's notification No.1 of 2024 dated 30.01.2024 will result in 100% of the 6244 vacancies in 32 posts in Tamil Nadu Combined Civil Services(Group-IV services) being reserved for Tamil Medium students depriving English medium students from competing for the 6244 vacancies in the 32 posts in the Tamil Nadu Combined Civil Services(Group-IV Services) notified in notification No.1 of 2024 dated 30.01.2024.

Prayer in W.P.No.13038 of 2024: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the second respondent to amend the advertisement No.678, notification No.1 of 2024 dated 30.01.2024 by stating in the Clause 4 dealing with the Scheme of Examination that in the Part-A of the exam, eligibility test will be held in Tamil and the Scoring Test for which 150 marks out of 300 marks is allotted will be held in both Tamil language and English language for selecting candidates by direct recruitment to the 6244 vacancies in 32 posts included in Combined Civil Services Examination-IV(Group-IV Services).



(in both W.Ps)

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For Petitioners : Ms.Nalini Chidambaram,
Senior counsel,
for Ms.C.Uma.

For Respondents : Mr.P.S.Raman,
Advocate General,
assisted by,
Mr.D.Ravichander,
Special Government Pleader.
* * *

COMMON ORDER

Heard the learned Senior counsel appearing for the writ petitioners and the learned Advocate General appearing for the first respondent and the learned Standing counsel appearing for TNPSC.

2. W.P.No.13034 of 2024 has been filed challenging G.O.Ms.No.133, Human Resource Management (M) Department, dated 01.12.2021 issued by the first respondent and the consequential notification No.1 of 2024 dated 30.01.2024 issued by the second respondent. W.P.No.13038 of 2024 has been filed for appropriately amending the impugned recruitment notification.

3. The writ petitioners are candidates eligible to participate in the impending Group-IV Combined Civil Services Examination. They



challenge G.O.(Ms)No.133 Human Resource Management (M)

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Department, dated 01.12.2021 and the recruitment notification dated 30.01.2024 issued by TNPSC on the grounds mentioned in the affidavit filed in support of the writ petitions. The learned Senior counsel appearing for the writ petitioners reiterated all the contentions set out therein. The scheme of examination envisages writing Part-A and Part-B papers. The total marks awarded is 300(150 marks for Part-A and 150 marks for Part-B). The candidates have to write both the papers. Only if the candidates secure minimum qualifying mark of 40% in Part-A, Part-B paper will be taken up for evaluation. The petitioners complain that if 150 marks awarded for Part-A is taken into account, that will put the petitioners at disadvantage as they are not as proficient in Tamil as others. The learned Senior counsel would submit that it is unreasonable to expect more than mere proficiency in Tamil. According to her, all that the respondents can stipulate is mere pass in Part-A and once the candidates pass in Part-A by securing 40%, the marks secured in Part-B alone should be taken up for consideration. Otherwise, it will amount to providing 100% reservation for Tamil medium candidates. The Tamil Nadu Act 40 of 2010 envisages providing only 20% horizontal reservation for the persons who studied in Tamil medium. This will



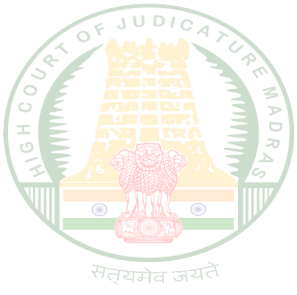
become 100% reservation, if the impugned notification is not interfered

with.

4. The learned Advocate General submitted that the impugned notification issued by the second respondent is in consonance with Section 21-A of the Tamil Nadu Government Servants (Conditions of Service) Act 2016. The provision came into force and quite a few recruitments have taken place during the intervening period. He pointed out that the validity of a subordinate legislation can be impugned only on certain grounds and that those grounds are absent in this case. In any event, a policy decision consciously taken by the Government cannot be assailed on the grounds canvassed by the petitioners. He pressed for dismissal of the writ petitions.

5. The learned Standing counsel appearing for TNPSC submitted that their notification is merely in consonance with the impugned G.O and that it cannot be faulted.

6. I carefully considered the rival contentions and went through the materials on record.



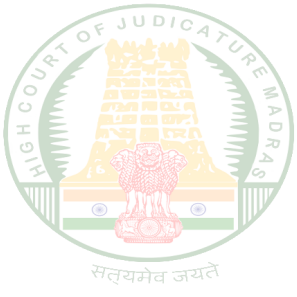
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7. The Tamil Nadu Government Servants (Conditions of Service) Act, 2016 was enacted to regulate the service conditions of the Tamil Nadu Government servants. Section 21 of the Act states that the Government servants should have adequate knowledge of Tamil. Oral test can be conducted to find out if they can converse fluently in Tamil. Section 21-A of the Act was introduced in the year 2021. Section 21-A(1) of the Act is as follows:-

“21-A. Compulsory Tamil language paper for recruitment – (1) Notwithstanding anything contained in Section 21, on and from the 1st day of December 2021, any person who applies for recruitment to any post in any service by direct recruitment shall pass the Tamil language paper in the examination conducted for the recruitment with not less than forty percent marks.”

The impugned G.O is in consonance with the aforesaid statutory provision and the impugned recruitment notification is in consonance with both.

8. Clause 5 of the impugned Government Order is as follows:-



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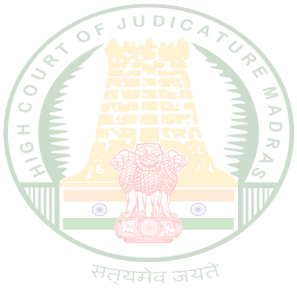
□5. **ஒரே நிலை கொண்ட (Single stage Examination) தேர்வுகளின் (தொகுதி III மற்றும் IV) நடைமுறைகள் விவரம்.**

(1) தற்போது நடைமுறையிலுள்ள பொதுத்தமிழ் / பொது ஆங்கிலம் உள்ள நேர்வுகளில், பொது ஆங்கிலத்தாள் நீக்கப்பட்டு, பொது தமிழ்மொழித் தாள் மட்டுமே மதிப்பீட்டுத் தேர்வாக அமைக்கப்படும்.

(2) அதாவது, தொகுதி III, IV போன்ற ஒரே நிலை கொண்ட (Single stage Examination) தேர்வுகளுக்கு, தமிழ்மொழித் தாளானது, தகுதி மற்றும் மதிப்பீட்டுத் தேர்வாக (Tamil Eligibility-cum-Scoring Test) நடத்தப்படும். இத்தமிழ்மொழித் தகுதி மற்றும் மதிப்பீட்டுத் தேர்வானது 150 மதிப்பெண்களுக்கு பகுதி-அ என கொள்குறி வகையில் (Objective Type) அமைக்கப்படும்.

(3) பொது அறிவு + திறநறிவு (Aptitude) + மனக்கணக்கு நுண்ணறிவு (Mental Ability) ஆகிய பாடத்திட்டங்கள் 150 மதிப்பெண்களுக்கு பகுதி-ஆ என கொள்குறி வகையில் (Objective Type) நடத்தப்படும்.

(4) பகுதி-அ-வில் குறைந்தபட்சம் 40 சதவீத மதிப்பெண் தேர்ச்சி (Minimum Qualifying Marks) பெற்றால் மட்டுமே பகுதி-ஆ-வில் எழுதிய தேர்வுத்தாளும் / இதர



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தாட்களும் மதிப்பீடு செய்யப்படும்.

(5) இவ்விரண்டு பகுதிகளின் (பகுதி “அ”மற்றும் “ஆ) அனைத்துத் தாட்களின் மொத்த மதிப்பெண்களும் தரவரிசைப் பட்டியலுக்கு எடுத்துக் கொள்ளப்படும்.□

9. Section 21-A of the Act has not been challenged. A subordinate legislation can be assailed only if it can be shown that it is contrary to constitution or it is ultra vires the parent Act. The petitioners have not been able to demonstrate that the impugned G.O is ultra vires the constitution. The scope of controversy has therefore become limited. So long as the parent provision is occupying the field, unless the consequential Government Order is shown as ultra vires the parent statute, its validity cannot be questioned. The Government as employer obviously has the power to prescribe the qualification of the candidates proposed to be selected. As rightly pointed out by the learned Advocate General, persons in Group-IV posts will have to have direct interaction with the people and they ought to have sufficient knowledge in Tamil. They should be able to fluently converse and write in Tamil. This is a *sine qua non* for efficient discharge of their functions and duties. This can be found out only by making them write the eligibility paper. The

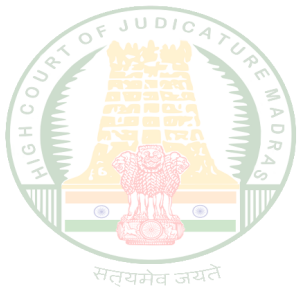


employer does not insist that the candidates should secure 100% of marks in the eligibility papers. What is expected is mere pass mark of 40%. The petitioners are not justified in insisting that it is sufficient to pass in Tamil paper alone and that the performance in that paper should be otherwise ignored. The scheme of examination is as follows:-

“4. Scheme of Examination:

Type of Examination : Objective Type (OMR Method)					
Part	Subject	No. of questions	Maximum marks	Duration	Minimum Qualifying Marks for selection (All Communities)
Single Paper (S.S.L.C. Standard)					
Part A	Tamil Eligibility-cum Scoring Test	100	150	3 hours	90
Part B	General Studies	75	150		
	Aptitude and Mental Ability Test	25			
	Total	200	300		

4.1. Part B of the answer sheets will be evaluated only if the candidate secures minimum qualifying marks of 40% (i.e., 60 Marks) in Part A. Total marks secured in Part-A and Part-B taken together will be considered for ranking. The questions in Part-A Tamil Eligibility-cum-Scoring Test will be set in Tamil only. The questions in Part B will be set both in Tamil and English.



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4.2. Differently Aabled candidates (irrespective of the percentage of disability) who have studied English subject only in Board/University can avail exemption from writing the Tamil Eligibility-cum-Scoring Test and instead, they can opt for General English (SSLC Standard). There will be no translation part in this paper. The questions in Part A of General English will be set in English only. Such candidates should furnish the required details in the application and upload the Certificate of Disability in the format prescribed in Annexure II of this notification, at the time of submission of the online application, without fail.

4.3. The syllabus for the written examination is available in Annexure III of this Notification.

4.4 The instructions to be followed while appearing for the examination, are available in Annexure IV of this Notification. The video regarding the instructions to candidates appearing for the objective-type examinations is available at <https://www.tnpsc.gov.in/English/omr-guidelines.html>."

10. It is seen that the candidates have to write two papers; Part-A and Part-B. In Part-A is Tamil eligibility and scoring test. Both the papers carry 150 marks each. Part-B answer paper will be taken up for evaluation only if the candidate had secured 60 marks in Part-A paper. If the contention of the learned Senior counsel appearing for the



petitioners is accepted, the candidate who secures 150 marks in part-A

and the one who secures 60 marks will have to be put on the same

footing. The petitioners want this Court to hold that selection should be

based only on the performance in Part-B. This contention is without any

merit. I endorse the stand of the learned Advocate General that in such

policy matters, the writ Court ought not to interfere. The employer can

very well stipulate that marks secured in both the papers will be taken

into account. There is nothing unreasonable in the stand taken by the

respondents. In matters concerning recruitment, the employer can

prescribe the qualifications and unless it is illegal or without jurisdiction,

the Court ought not to interfere. Section 21-A of the Act is holding the

field. The impugned Government Order is in consonance with Section

21-A of the Act. The recruitment notification was issued in consonance

with the impugned Government Order. There is no merit in the writ

petitions. They are dismissed. No costs. Consequently, connected

miscellaneous petitions are closed.

30.05.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes/ No

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W.P.NO.13034 OF 2024

To:

1. The Secretary to Government,
Human Resources Management(M) Department,
Fort St. George, Chennai – 600 009.
2. The Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road, VOC Nagar,
Park Town, Chennai – 600 003.



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W.P.NO.13034 OF 2024

G.R.SWAMINATHAN,J.

PMU

W.P.Nos.13034 & 13038 of 2024

30.05.2024