

W.P.Nos.29688, 29987, 28846, 28928, 29059, 30041, 29134, 29314 and 29672 of 2019 and W.P.(MD) Nos.20114, 20669, 21050, 21051, 21085, 21135 and 21406 of 2019

THE HON'BLE ACTING CHIEF JUSTICE  
AND  
C.SARAVANAN, J.

(Order of the Court was made by the *Hon'ble Acting Chief Justice*)

We are passing this common interim order in the present batch of writ petitions filed by the "Fresh Law Graduates", who were aspiring to apply for the post of **Civil Judge** in pursuance of the Notification issued by the Tamil Nadu Public Service Commission (for brevity, "**the TNPSC**") vide Notification No.25/2019, dated 9.9.2019, with the last date of giving online applications being 9.10.2019.

2. The Eligibility Criteria stipulated in the said Notification dated 9.9.2019 was given in consonance with the Tamil Nadu State Judicial Service (Cadre and Recruitment) Rules, 2007 (for brevity, "**the Rules**"), which is quoted below:

**"4. ELIGIBILITY**

**i. A CANDIDATE FOR DIRECT RECRUITMENT TO THE SERVICE**

- a) *Must be a citizen of India;*
- b) *Should possess adequate knowledge to read, write and speak in English and Tamil.*

**Note:-Applicants who do not possess an adequate knowledge in Tamil may also apply. If selected, they should pass the Second Class Language Test in Tamil within the period of probation.**

**ii. CHARACTER AND CONDUCT:**

- a) *The character of a candidate must be such as to make him suitable in all respects for appointment to the Service. He must produce a certificate of character and conduct given after the date of notification from **three responsible persons** not related to the applicant in the format prescribed in Annexure-A. Out of the three persons certifying, one must be a Senior Advocate or Advocate and the other two shall be responsible persons, not being relatives of the applicants but who are well acquainted with the applicant in his/her personal life.*

**Note:**

**The persons certifying need not be Gazetted Officers or Government Servants or Judicial Officers.**

b) No person shall be appointed as a member of the Service unless he is in good mental and physical health and free from any disability, except a person who is claiming reservation under Rule 10 of the Rules. Before appointment, candidates with disability shall be required to appear before a Medical Board constituted for assessment which will examine them and certify that they are fit for appointment to the service and their disability will not affect the effective performance of duty as a member of the service.

**iii. Must satisfy other conditions prescribed for appointment to the post of Civil Judge."**

3. The schedule of examination as given in paragraph (2) of the said notification dated 9.9.2019 is also quoted below for ready reference:

**"2. IMPORTANT DATES AND TIME**

Date of notification	<b>09.09.2019</b>	
Last date for submission of application	<b>09.10.2019</b>	
Last date for payment of fee through Bank	<b>11.10.2019</b>	
<b>Date of Written Examination</b>		
<b>Preliminary Examination</b>	<b>24 .11.2019</b>	<b>10.00 A.M. to 01.00 P.M.</b>
	<b>28.03.2020</b>	<b>09.00 A.M. to 12.00 Noon.</b>
<b>Main Examination</b>	<b>28.03.2020</b>	<b>02.00 P.M. to 05.00 P.M.</b>
	<b>29.03.2020</b>	<b>09.00 A.M. to 12.00 Noon.</b>
	<b>29.03.2020</b>	<b>02.00 P.M. to 05.00 P.M.</b>
	<b>29.03.2020</b>	<b>02.00 P.M. to 05.00 P.M.</b>

4. The Essential Qualifications as given in paragraph 3(B) of the said Notification are also quoted below for ready reference:

**(B) ESSENTIAL QUALIFICATIONS (As on 09.09.2019)**

The Applicants should possess the following qualification:

<b>I.</b>	<b>For Practising Advocates/ Pleaders and Assistant Public Prosecutors:</b>	(i) Must possess a Degree in Law of a University in India established or incorporated by or under a Central Act or a State Act or an Institution recognised by the University Grants Commission, or recognized by Bar Council of India or any other equivalent qualification and enrolled in the Bar Council of Tamil Nadu or in the Bar Council of any other State in India <b>and</b> (ii)(a) Must be practising as an Advocate or Pleader in any Court on the date of Notification for recruitment to the post and must have so practiced for a period of not less than 3 years on such date. <b>(or)</b> (b) Must be an Assistant Public Prosecutor having not less than 3 years of experience as an Advocate and / or Assistant Public Prosecutor.
<b>II.</b>	<b>For Fresh Law Graduates</b>	(i) Must be a fresh Law Graduate possessing a degree in Law from a recognized University as mentioned in Clause-I (i) above, (ii) Must be eligible to be enrolled as an advocate. (iii) Must have secured an overall percentage of marks in acquiring the Bachelor's Degree of Law as below:- (a) 45% Marks in case of Reserved Categories (i.e SCs, SC(A)s, STs, MBCs/DCs, BCs(OBCMs) and BCMs). (b) 50% Marks in case of Open Category (i.e Others). (iv) Must have obtained the Bachelor's Degree of Law within a period of three years prior to the date of notification.

5. The petitioners before us sought to apply for the said direct recruitment to the post of Civil Judge online as required in the said notification, as only online applications were allowed on or before 11.59 PM on 9.10.2019, but their applications could not be uploaded for the following reasons, as contended in the writ petitions filed by these petitioners.

6. The petitioners have come with the case that their applications were not accepted online because even though they passed their Final Year Law Examination from the duly approved Universities in the year 2016, but their Provisional Certificates for the Degree of the said B.L. Examination were issued on a date which fell prior to 9.9.2016 and, thus, their Law Degree was not issued "**within a period of three years prior to the date of notification**". They contended that their batchmates or the Law Graduates of the year 2016 itself from the same University/Universities similarly situated to them, but by a fortuitous circumstance, because their Provisional Certificate for Law Degree was issued after 9.9.2016, but before 9.9.2019, they were treated as having obtained Law Degree "*within*

*three years*" prior to the date of Notification dated 9.9.2019 and their applications were entertained online and thus, they became eligible to participate in the said recruitment process as per the Notification dated 9.9.2019. This, according to the learned counsel for the petitioners, has caused invidious discrimination violative of Article 14 of the Constitution of India, without any rational nexus sought to be achieved by the said Notification in accordance with the Rules and, therefore, they prayed for necessary mandamus for directing the respondent TNPSC to entertain their applications also by providing them a one time opportunity in this very recruitment process, as the examinations for the said recruitment are yet to commence on 24.11.2019 and Hall tickets to others are also yet to be issued.

7. The learned counsel for the petitioners have relied upon paragraph (32) of the judgment of Supreme Court in ***All India Judges Association and others v. Union of India and others, (2002) 4 SCC 247 : AIR 2002 SC 1752***, which is quoted below for ready reference:

*"32. In All India Judges' Association v. Union of India, (1993) 4 SCC 288 this Court has observed that in*

order to enter the judicial service, an applicant must be an advocate of at least three years' standing. Rules were amended accordingly. With the passage of time, experience has shown that the **best talent which is available is not attracted to the judicial service. A bright young law graduate after 3 years of practice finds the judicial service not attractive enough.** It has been recommended by the Shetty Commission after taking into consideration the views expressed before it by various authorities, **that the need for an applicant to have been an advocate for at least 3 years should be done away with.** After taking all the circumstances into consideration, **we accept this recommendation of the Shetty Commission** and the argument of the learned amicus curiae that **it should be no longer mandatory for an applicant desirous of entering the judicial service to be an advocate of at least three years' standing.** We, accordingly, in the light of experience gained after the judgment in All India Judges case direct to the High Courts and to the State Governments to amend their rules **so as to enable a fresh law graduate who may not even have put in three years of practice, to be eligible to compete and enter the judicial service.** We, however, recommend that a fresh recruit into the judicial service **should be**

**imparted training of not less than one year, preferably two years."**

8. The learned counsel for the respondent TNPSC, Ms.Niraimathi, and the learned counsel for the High Court, Mr.B.Vijay, have, however, submitted that the Notification dated 9.9.2019 has been issued perfectly in consonance with the judgment of the Hon'ble Supreme Court of India cited above and the Rules of 2007, and since the Provisional Certificate or Law Degree obtained by these fresh Law Graduates were not bearing the date "*within three years from the date of Notification dated 9.9.2019*", namely on or after 9.9.2016, the online system of the TNPSC could not accept these applications and the same does not amount to any discrimination violative of Article 14 of the Constitution of India. In other words, they have justified the non-acceptance of the online applications of the present petitioners and other similarly situated persons.

9. We have heard the learned counsel at some length and we pass the following interim order, ***while admitting all these writ petitions***, for final hearing at a later stage:

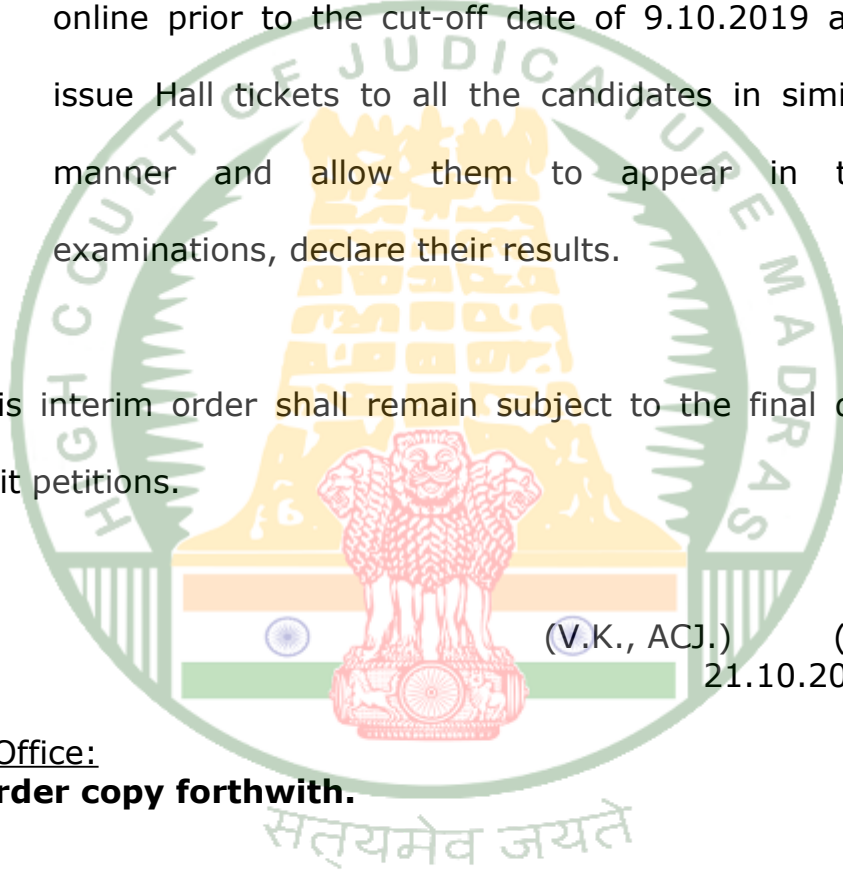


- i. The respondent TNPSC shall provide the facility by opening the online window immediately for submitting the applications by the Fresh Law Graduates of recognized Universities of the year **2016** and those who have obtained their Provisional Law Degree Certificate on any date before the date specified in the Notification bearing No.25/2019, dated 9.9.2019.
- ii. The candidates will have to satisfy the other criteria prescribed in the Notification, including the criteria of minimum and maximum age as provided in the said Notification, without any relaxation.
- iii. This facility under the present interim order of this Court **shall be available only up to 11.59 PM of Tuesday, 29.10.2019** and under no circumstances this date will be further extendable.
- iv. The candidates of the aforesaid category or class, namely "Fresh Law Graduates of 2016" will be entitled to apply online in the aforesaid manner irrespective of the fact whether they have

- approached the Court by way of writ petition or not. We make it clear that no fresh writ petition for the said purpose by the candidates falling in the aforesaid category is required to be filed nor the same will be entertained and irrespective of the filing of writ petitions, such candidates will be entitled to apply online, provided they satisfy the other conditions and criteria, as stipulated hereinabove and in the Notification dated 9.9.2019.
- v. These Fresh Law Graduates of the year 2016 shall also be allowed to pay the prescribed fees online for their examination within the aforesaid window period of 21.10.2019 to 29.10.2019. The last date for off-line payment of prescribed fees shall close on 31.10.2019.
- vi. The respondent TNPSC shall publish this interim order of the Court on their official website and the High Court shall also publish this interim order of the Court on the official website of the Madras High Court, forthwith.

vii.The respondent TNPSC shall process these online applications filed between 21.10.2019 and 29.10.2019 in the same manner as has been done for the other candidates, who have already applied online prior to the cut-off date of 9.10.2019 and issue Hall tickets to all the candidates in similar manner and allow them to appear in the examinations, declare their results.

This interim order shall remain subject to the final decision of these writ petitions.



(V.K., ACJ.)

(C.S.N., J.)

21.10.2019

Note to Office:

**Issue order copy forthwith.**

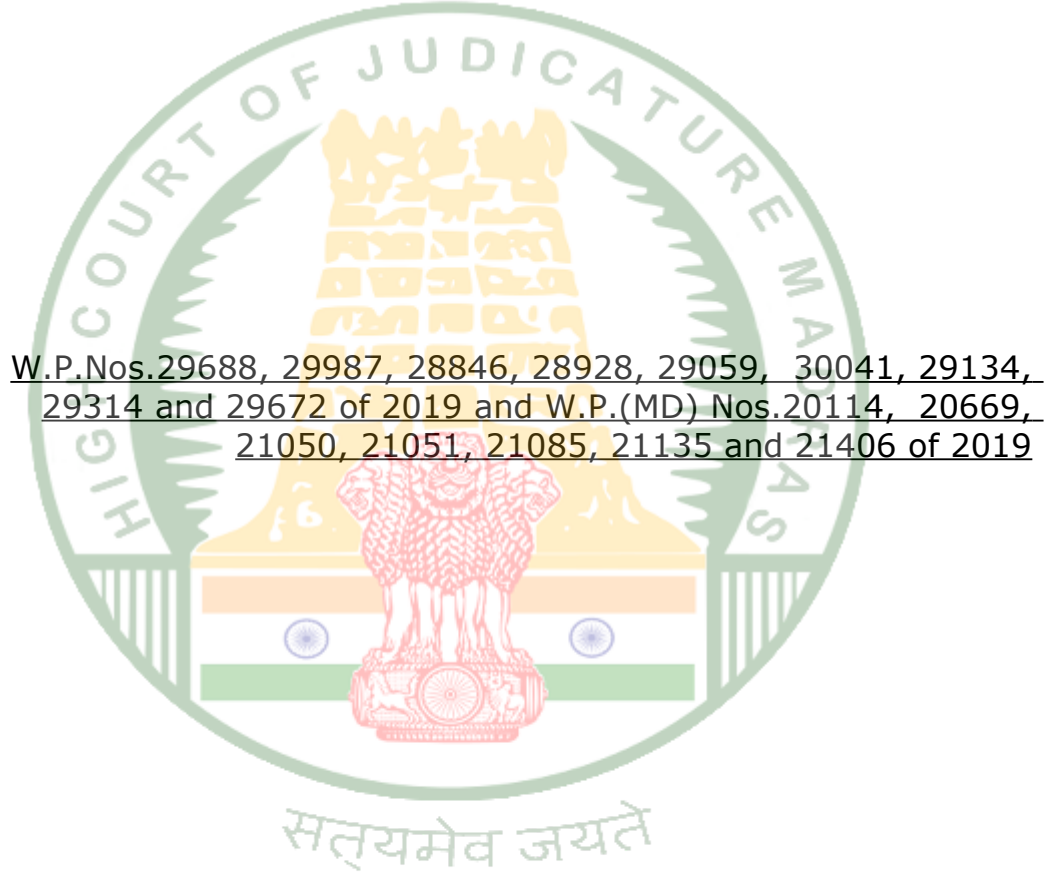
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*W.P.No.29688 of 2019, etc.*

HON'BLE ACTING CHIEF JUSTICE  
AND  
C.SARAVANAN, J.

(sasi)



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21.10.2019