



W.P(MD)No.9280 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.09.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.9280 of 2022

and

W.M.P(MD)Nos.6662 & 6664 of 2022

Meenatchi Sundaram

... Petitioner

Vs

1.The Principal Secretary to Government,
Personnel & Administrative Reforms Department,
Secretariat,
Chennai – 600 002.

2.The Member Secretary,
Tamil Nadu Public Service Commission,
Chennai – 600 006.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the Impugned Order of Rejection so for the petitioner's Registration No. 1001003064 published in the second respondent's official website dated -nil and quash the same as illegal.

For Petitioner : Mr.R.M.Arun Swaminathan

For Respondents : Mr.A.K.Manickam
Special Government Pleader for R.1

Mr.V.Panneerselvam
Standing Counsel for R.2



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ORDER

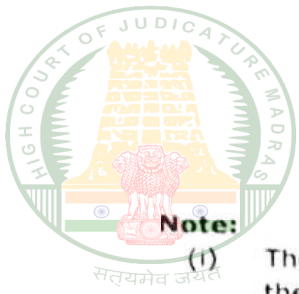
The learned counsel on either side.

2. The writ petitioner acquired Law Degree in 2010. He joined the office of Mr.S.Manimaran as Junior Advocate. The petitioner specifically claims that he practised in civil and criminal Courts in Melur and Singampunari. The petitioner applied in response to the Notification No.10 of 2021 dated 25.08.2021 issued by Tamil Nadu Public Service Commission (TNPSC) calling for applications for direct recruitment for the post of Assistant Public Prosecutor, Grade-II in Prosecution Department included in the Tamil Nadu General Service. The petitioner was not issued with any hallticket. Challenging the same, the present writ petition came to be filed. By virtue of the interim order granted by this Court, the petitioner had written the examination also.

3. There is no dispute that the impugned recruitment notification contains the following clause :

2015)
(B) EDUCATIONAL QUALIFICATION (as on 25.08.2021)
Applicants should possess the following or its equivalent qualification awarded by any University or Institution recognized by the University Grants Commission:

- i) Must possess B.L. degree,
- ii) Must be a member of the Bar,
- iii) Must possess adequate knowledge of Tamil
and
- iv) **Experience:** Must have had active practice in 'criminal courts'
for a period of not less than *five* years.



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Note:

(i)

The qualification prescribed for the post should have been obtained by passing the required qualification in the following order of studies: 10th + HSC or its equivalent + Bachelor's degree as required under Section 25 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016. Results of the examination should have been declared on or before the date of notification. (Section 20(4)(iv) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016).

- (ii) Applicants claiming equivalence of qualification to the prescribed qualification 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 produce it when called for, failing which, their application **will be summarily rejected**. The government orders regarding equivalence of qualification issued after the date of this notification will not be accepted. (For further details regarding equivalence of qualification refer note under para.9 of the "Instructions to Applicants").

EXPLANATION:

(i) The expression "active practice in Criminal Courts" shall include the period of service rendered by a person as a temporary Assistant Public Prosecutor, Grade-II.

(ii) For this purpose, a person will be deemed to possess an adequate knowledge of Tamil, if he/ she has passed the S.S.L.C. examination or its equivalent examination with Tamil as one of the languages or studied the First School Course in Tamil Medium and passed the S.S.L.C. examination or its equivalent examination in Tamil Medium or passed the Second Class Language Test in Tamil conducted by the Tamil Nadu Public Service Commission.

[Explanation (i) under Section 21(1) of the Tamil Nadu Government Servants (Conditions of Service) Act 2016] [Para 14(I)(i) of the Commission's 'Instructions to Applicants'.]

NOTE:

A certificate in the format prescribed in Annexure-II should be obtained from a **Senior Advocate** or from the **Presiding Officer** of.....Court in support of the applicant's claim regarding the period of active practice in Criminal Courts and kept ready before applying online.



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4. The petitioner had enclosed the Certificate in the following terms:

ANNEXURE - II
FORMAT FOR EXPERIENCE CERTIFICATE

RECEIVED
02 MAY 2022
WRIT
A.L. Section
MADRAS
HIGH COURT

This is to certify that Mr. C.Meenatchisundaram Son of Chinmasamy Age-36, permanently residing at No 2/56, Mangalampatti Post, Melur Taluk, Madurai District 625101 Mr. C.Meenatchisundaram was enrolled as an Advocate on 22.09.2010 and has been continuously practicing from 22.09.2010 to 20.09.2021 He has been regularly appearing in Melur and Singampunari courts, conducting cases on her own. He has passed B.L. degree in 2010 year from the Govt. Law College Coimbatore / Ambedkar Law University, Chennai .

* Notification date : 25.08.2021

S. Manimaran
S. MANIMARAN, M.A., LL.B.,
ADVOCATE MS.730/96
1-I, Diamond Jubilee Complex
Madurai Main Road, Melur - 625106
Madurai (Dt). Cell : 98944 20117

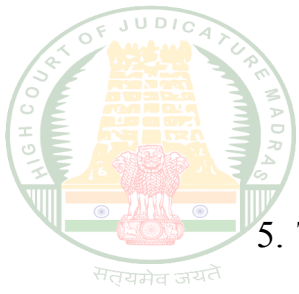
Date: 20.09.2021
Station: Melur

Signature, Name and Designations of the
Presiding Officer/Competent Authority
Seal of the Court/Officer

Note:-

1. A certificate in the format prescribed in Annexure-II should be obtained from a **Senior Advocate** or from the **Presiding Officer** of Melur Court in support of the applicant's claim regarding the period of active practice in Criminal Courts.

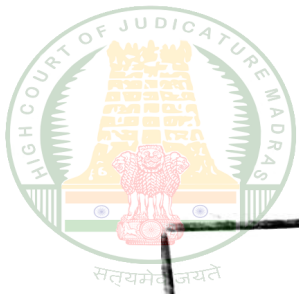
2. The term "Senior Advocate" **herein** includes Additional Public Prosecutor/Public Prosecutor, President/Secretary of the Bar Associations and Advocates practicing for ten years and more in Taluks and Districts, besides the Senior Advocates practicing in the High Court and in the Supreme Court.



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5. The Certificate issued by the writ petitioner's senior Mr.S.Manimaran merely states that the petitioner has been regularly appearing in Melur and Singampunari Courts and conducting cases on his own. The Certificate issued in favour of the writ petitioner does not state that the petitioner had active practise in Criminal Courts for a period of not less than five years. This omission goes to the root of the matter. It cannot be made good subsequently.

6. The learned counsel appearing for the petitioner states that he is ready to produce enough and more material to show that the petitioner has been practising in criminal Courts. But that is beside the point. The certificate in the prescribed format has to be filed along with the application submitted in response to the recruitment notification. The format set out in the Annexure II of the notification is as follows :



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ANNEXURE – II

FORMAT FOR EXPERIENCE CERTIFICATE

This is to certify that Mr/Mrs/Miss.....Son/Daughter/Wife ofAge..... permanently residing at No.....Mr/Mrs/Miss.....was enrolled as an Advocate onand has been continuously practicing from(date) to till date *. He/She has been regularly appearing incourts, conducting cases on her/his own. She/He has passed B.L./M.L., degree inyear from theCollege/University.

* Notification date

Date:

Signature, Name and Designations of the

Station:

Presiding Officer/Competent Authority

Seal of the Court/Officer

Note:-

1. A certificate in the format prescribed in Annexure-II should be obtained from a **Senior Advocate** or from the **Presiding Officer** of.....Court in support of the applicant's claim regarding the period of active practice in Criminal Courts.

2. The term "Senior Advocate" **herein** includes Additional Public Prosecutor/Public Prosecutor, President/Secretary of the Bar Associations and Advocates practicing for ten years and more in Taluks and Districts, besides the Senior Advocates practicing in the High Court and in the Supreme Court.

7.However, the format set out in the Annexure - II has to be read along with Clause 4(B). The petitioner who is said to have practised in the criminal Courts has to produce the relevant certificate. When the petitioner has



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failed to meet the requirement set out in the recruitment notification, the question of granting relief to him does not arise at all.

8.This writ petition stands dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

23.09.2022

Index : Yes / No
Internet : Yes / No
mga

To

- 1.The Principal Secretary to Government,
Personnel & Administrative Reforms Department,
Secretariat,
Chennai – 600 002.
- 2.The Member Secretary,
Tamil Nadu Public Service Commission,
Chennai – 600 006.



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G.R.SWAMINATHAN, J.

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