
(2016) 02 MAD CK 0084

In the Madras High Court

Case No : Writ Petition (MD) Nos. 2760 and 2761 of 2016 and W.M.P.(MD) Nos. 2445 to 2448 of 2016

M. Durai Murugan and Others

APPELLANT

Vs

State of Tamil Nadu and Others

RESPONDENT

Date of Decision : 18-02-2016

Acts Referred:

Tamil Nadu Appointment on Preferential Basis in the Services Under the State of Persons Studied in Tamil Medium Act, 2010 — Section 8

Citation : (2016) 02 MAD CK 0084

Hon'ble Judges : S. Manikumar and C.T. Selvam, JJ.

Bench : Division Bench

Advocate : T. Lajapathi Roy, for the Appellant; K. Chellapandian, Additional Advocate General assisted by N. Manohar, Special Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

S. Manikumar, J.—1. In-service Grade-I and Grade-II Police Constables, who had applied, for the post of Sub-Inspector of Police, and unsuccessful in the selection, have sought for a Writ of Declaration, declaring Rule 2(a) of the Tamil Nadu Appointment on Preferential basis in the Services, under the State of Persons Studied in Tamil Medium Rules, 2010, containing the definition of "direct recruitment" and the method of 20% of preferential reservation, for the persons studied, under Tamil Medium, in the recruitment to the post of Sub-Inspector of Police-2015, as illegal, and for a consequential direction to the respondents, to apply 20% reservation, for PSTM Category, in the total number of vacancies, notified in the notification, dated 08.02.2015, in accordance with the previous cut-off marks, for each category, and make appointments forthwith.

2. According to the petitioner in W.P. No. 2760/16, he was initially appointed as Grade-II Police Constable, and lateron, became Grade-I Police Constable. He possesses more than five years of service.

3. According to the petitioner in W.P. No. 2761/16, she was selected as Grade-II Police Constable, and now working in the said capacity, at Keelaselvanoor Police Station, Ramanathapuram District. She possesses more than five years of service.

4. Pursuant to the notification, dated 08.02.2015, issued by the Tamil Nadu Uniformed Services Recruitment Board, inviting applications, for direct recruitment, to the post of Sub-Inspector of Police (Taluk), the petitioners applied for the same, under departmental quota. In the selection, they secured 63 and 49.5 marks respectively.

5. The petitioners have contended that as per the notification dated 08.02.2015, 20% reservation of posts should be given, in the overall vacancies, to those who had studied Tamil Medium. But, the respondents have restricted such 20% reservation, only to general open category candidates. The respondents have not followed 20% reservation, to PSTM departmental candidates. With the above facts, Writ of Declaration is sought for, on the grounds that rule 2(a) of the Tamil Nadu Appointment on Preferential basis in the services, under the State of Persons Studied in Tamil Medium Rules, 2010, containing the definition of the word, "direct recruitment", is illegal.

6. It is the case of the petitioners that the words, ""direct recruitment"" should include fresh appointment of the in-service candidates, to the post of Sub-Inspector of Police.

7. Rule 2(a) of the Tamil Nadu Appointment on Preferential basis, in the services under the State of Persons Studied in Tamil Medium Rules, 2010, is sought to be declared as illegal, also on the grounds that when the notification, dated 08.02.2015, states that 20% of all vacancies, shall be set apart, on preferential basis, for the persons, who had studied graduation in Tamil Medium, the respondents cannot apply the same, only for open category candidates excluding the departmental or the in-service candidates.

8. Apart from the abovesaid grounds, in support of the prayer sought for, the petitioners have also raised other grounds, assailing the correctness of the procedure, followed in the selection.

9. It is also the grievance of the petitioners, is that the respondents have reduced the cut-off marks, for PSTM open candidates, which is not permissible, and there was also reduction of cut-off marks, in the final selection, after adjusting the sports quota candidates and the category, ""police ward and department candidates"".

10. Responding to the abovesaid challenge, Mr. K. Chellapandian, learned Additional Advocate General, Government of Tamil Nadu, submitted that on an earlier occasion, when certain unsuccessful candidates have filed W.P.(MD) Nos. 22119 to 22122 of 2015, for a Writ of Declaration, declaring the Sub-Inspector of Police - 2015 Final Cut-off Marks for PSTM MBC/DC General Category as 42 marks, as illegal and consequently, to direct the respondents to apply 20% of

reservation for PSTM category, in the total number of vacancies, notified vide the notification, dated 08.02.2015, in accordance with the previous cut-off marks for each category and make appointments forthwith, the Hon'ble First Bench of the Principal Court, while interpreting Rule 2(a) of the Tamil Nadu Appointment on Preferential Basis in the Services under the State of Persons Studied in Tamil Medium Rules, 2010, has categorically held that the said Rule apply only to the first appointment in service and it cannot be extended to the departmental candidates, who had studied in Tamil. He further submitted that the challenge to the selection, by awarding different cut-off marks, has also been negated by the Hon'ble Division Bench, vide common order, dated 20.01.2016 in W.P.(MD) Nos. 22119 to 22122 of 2015. For the abovesaid reasons, he prayed for dismissal of the present writ petition.

11. During the course of hearing, Mr. K. Chellapandian, learned Additional Advocate General, Government of Tamil Nadu, submitted a copy of the counter affidavit, filed in W.P.(MD) No. 22121 of 2015. Considering the challenge made in the present writ petition, we deem it fit to consider the averments made in the abovesaid writ petition and the decision made.

12. By way of reply, learned counsel for the petitioner submitted that in the abovesaid writ petitions in W.P.(MD) Nos. 22119 to 22122 of 2015, etc., the validity of the rule, was not tested and therefore, there is no bar, for filing the present writ petitions.

Heard the learned counsel for the parties and perused the materials available on record.

13. Before advertng to the rival submissions, on the challenge to Rule 2(a) of the Tamil Nadu Appointment on Preferential Basis in the Services under the State of Persons Studied in Tamil Medium Rules, 2010, we deem it fit to extract G.O. Ms. No. 145, Personnel and Administrative Reforms (S) Department, dated 30.09.2010, by which, the Tamil Nadu Appointment on Preferential Basis in the Services under the State of Persons Studied in Tamil Medium Rules, 2010, have been framed.

"GOVERNMENT OF TAMIL NADU ABSTRACT

Ordinance - Tamil Nadu Appointment on preferential basis in the Services under the State of Persons Studied in Tamil medium Ordinance, 2010 - Rules framed - Notified.

PERSONNEL AND ADMINISTRATIVE REFORM(S) DEPARTMENT

G.O. Ms. No. 145

Dated: 30.09.2010

Read:

Tamil Nadu Ordinance No. 3 of 2010

ORDER:

The following Notification will be published in the Tamil Nadu Government Gazette:-

NOTIFICATION

In exercise of the powers conferred by sub-section (1) of Section 8 of the Tamil Nadu Appointment on preferential basis in the Services under the State of Persons Studied in Tamil Medium Ordinance, 2010 (Tamil Nadu Ordinance 3 of 2010), the Governor of Tamil Nadu hereby makes the following rules, namely:-

RULES

1. Short title:- These rules may be called the Tamil Nadu Appointment on preferential basis in the Services under the State of Persons Studied in Tamil medium Rules, 2010.

2. Definition:- In these rules, unless the context otherwise requires,-

(a) "direct recruitment" means first appointment of a person to any service under the State in accordance with the rules or regulations or orders in force;

(b) "persons studied in Tamil medium" means persons who have obtained the educational qualification or qualifications prescribed for direct recruitment in the rules or regulations or orders applicable to any appointment in the services under the State through Tamil medium of instruction;

(c) "services under the State" includes the services under-

(i) Government;

(ii) the Legislature of the State;

(iii) any local authority;

(iv) any Corporation or company owned or controlled by the Government; and

(v) any other authority in respect of which the State Legislature has power to make laws.

3. Manner of selection for appointment:- Twenty per cent of all vacancies in the appointment in the services under the State which are to be filled through direct recruitment shall be set apart on preferential basis to persons studied in Tamil medium as illustrated below:-

ILLUSTRATION

Out of 200 seats, 40 seats shall be set apart on preferential basis to persons studied in Tamil medium, in their respective category, in the following manner:-

(BY ORDER OF THE GOVERNOR)

Sd/- . K.N. VENKATARAMANAN, SECRETARY TO GOVERNMENT."

14. Rule 3 of the Tamil Nadu Appointment on preferential basis in the Services under the State of Persons Studied in Tamil medium Rules, 2010, has been substituted, vide G.O. Ms. No. 40, Personnel and Administrative Reform(s) Department, dated 30.04.2014 and the said Government Order is extracted hereunder:

"GOVERNMENT OF TAMIL NADU ABSTRACT

Tamil Nadu Appointment on preferential basis in the Services under the State of Persons Studied in Tamil medium Rules, 2010 - Amendment to Rule 3 - Issued.

PERSONNEL AND ADMINISTRATIVE REFORM(S) DEPARTMENT G.O. Ms. No. 40

Dated: 30.04.2014

Read:

1. Tamil Nadu Act No. 40 of 2010.
2. G.O. Ms. No. 145, Personnel and Administrative Reform(S) Department, dated 30.09.2010.
3. From the Secretary, Tamil Nadu Public Service Commission, Letter No. 4422/RND-02/2000, dated 08.02.2012.

ORDER:

The following Notification will be published in the Tamil Nadu Government Gazette:-

NOTIFICATION

In exercise of the powers conferred by sub-section (1) of Section 8 of the Tamil Nadu Appointment on preferential basis in the Services under the State of Persons Studied in Tamil Medium Ordinance, 2010 (Tamil Nadu Ordinance 3 of 2010), the Governor of Tamil Nadu hereby makes the following amendment to Tamil Nadu Appointment on preferential basis in the Services under the State of Persons Studied in Tamil Medium Ordinance, 2010.

AMENDMENT

In the said Rules, in Rule 3 under the head, ILLUSTRATION, the revised illustration as annexed to this Government Order shall be substituted.

(BY ORDER OF THE GOVERNOR)

Sd/- . P.W.C. DAVIDAR, PRINCIPAL SECRETARY TO GOVERNMENT."

15. Notification No. 01/2015, dated 08.02.2015, has been issued by the Tamil Nadu Uniformed Services Recruitment Board, to the post of Sub-Inspector of Police (Taluk), in Tamil Nadu Police Subordinate Service. Number of vacancies

notified are 984 + 94 (Backlog Women Ward). Clauses (5) to (8) of the Notification are as follows:

"5. QUOTAS: Vacancies are allotted to special quotas as follows:

Note:-

i. In case required numbers of candidates are not available for any of the Special Quotas (Departmental, Sports and Wards), the vacancies would be transferred to Open Quota.

ii. Communal reservation is provided within each quota as per existing rules.

6. ELIGIBILITY FOR APPLYING UNDER 20% POLICE DEPARTMENTAL QUOTA

i. Police Constables and Head Constables and their equivalent ranks in the Armed Reserve Police and Tamil Nadu Special Police can apply under 20% Departmental Quota if they meet the following eligibility criteria under Rule 14 of TNPSS Rules, 1953.

a. They should have completed 5 years of service as on the date of notification.

b. They should have a clean record without any punishment other than the minor punishments of black mark, reprimand or censure.

ii. Sub-Inspectors already in service in TSP/AR who fulfill prescribed eligibility norms for open candidates can apply only under Open Quota and not under departmental quota.

iii. Candidates applying under departmental quota are not eligible for any other special quota like Ward/dependent Quota or Sports Quota.

iv. Departmental Candidate can also apply under Open Quota, if they fulfill eligibility norms of Open Quota Candidates. These candidates will have to appear for two Written Examinations which will be held on two different dates.

v. Departmental Quota candidates will have to upload scanned image of "No Objection Certificate" issued by the Officer in the rank of Superintendent of Police and above as per the prescribed format (see reference documents).

vi. Departmental Quota candidates are exempted from Physical Measurement Test and Physical Efficiency Test. However, they are required to attend the Certificate verification and Endurance Test.

7. ELIGIBILITY FOR APPLYING UNDER 10% SPORTS QUOTA:-

i. Candidates applying under 10% Sports Quota should fulfil all the norms prescribed for open candidates. In addition, the candidate is required to produce Form-1, Form-II or Form-III for the approved 14 games/sports for an event held within 5 years preceding the date of notification to be eligible, (see reference documents)

- ii. The details of certificates required for claiming sports quota are as follows:-
- iii. List of approved Games and Sports
- iv. The Sports Quota candidate will have to participate in the Written Examination, Certificate Verification, Physical Measurement Test, Endurance Test and Physical Efficiency Tests.
- v. No special tests in these 14 games will be conducted for Sports Quota candidate.
- vi. The seniority of the candidates shall be based on the following order of distinction:-
 - a) Those who won medals in International Tournaments.
 - b) Those who represented in the International Tournaments.
 - c) Those who won medals in the National Tournaments.
 - d) Those who represented in National Tournaments.
 - e) Those who won medals in the Inter-University Tournaments.
 - f) Those who represented in Inter-University Tournaments.
- vii. If candidates under Sports Quota secure the same marks and belong to the same community, the senior among the candidate (age) will be ranked higher.

8. ELIGIBILITY FOR APPLYING UNDER 10% WARDS/DEPENDENT QUOTA:

- i. 10% of vacancies shall be filled up from the wards/dependents of serving, retired, deceased and medically invalidated police personnel (9%) and wards/dependents of serving ministerial staff of Police Department (1%).
- ii. There is no reservation under this quota for wards of other Government Servants.
- iii. The ward certificate should be obtained in the prescribed format after the date of notification. Old certificate obtained for any other recruitment will not be entertained, (see reference documents)
- iv. If the ward certificate is not furnished in the proper format, the candidate will not be considered under Wards Quota and will be treated as General candidate.
- v. The unfilled vacancies of Wards Quota will be filled by General Candidate of same category."

16. Notification issued makes it clear that there are certain concessions for special category, such as, Ex-servicemen and ex-personnel of central para-military forces and destitute widow. Section-II of the notification deals with Stages of recruitment, Distribution of marks, Written examination, Certificate verification - Physical Measurement Test -Endurance Test - Physical Efficiency

Test, Viva-Voce, Special marks, Provisional select list and Medical examination and verification of character and antecedents. Distribution of marks, between open quota and departmental quota are different. So also, the marks in the written examination. Clauses (2) and (3) dealing with distribution of marks and written examination, are extracted hereunder:

"2. DISTRIBUTION OF MARKS:

3. WRITTEN EXAMINATION

i. The Written Examination will be conducted at 32 District Headquarters. (List of Centres is enclosed in Annexure-II).

ii. Written Examination comprises of one paper containing objective type questions.

iii. The subjects covered in Written Examination are as follows:

A) Open Quota:-

1. The duration of the Written Examination will be 2 hours 30 minutes.

2. Minimum pass marks is 35% of 70 marks i.e. 25 marks.

* 140 questions each carrying half mark.

B) Departmental Quota:-

1. The duration of the Written Examination is 3 hrs.

2. Minimum pass marks is 35% of 85 marks, i.e., 30 marks.

* 170 questions each carrying half mark.

17. Following merit-cum-rule of reservation and concession, selection has been made. Perusal of the counter affidavit, filed in W.P.(MD) No. 22121 of 2015, shows that the petitioners therein have filed the writ petition, for a Declaration, declaring the Sub-Inspector of Police - 2015, Final Cut-off Marks for PSTM MBC/DC General Category as 42 marks as illegal and consequently, to direct the respondents therein, to apply the 20% of reservation for PSTM category, in the total number of vacancies, notified vide the notification, dated 08.02.2015, in accordance with the previous cut-off marks for each category, and to make appointments forthwith.

18. In the counter affidavit filed in W.P.(MD) No. 22121 of 2015, the Inspector General of Police & Member Secretary, Tamil Nadu Uniformed Services Recruitment Board, Chennai-2, has submitted that the PSTM is applicable only to persons, who seek first appointment to any service, under the State. Reference has been made to Rule 2(a) of the abovesaid Rules. Contentions have been made that the petitioner therein was a departmental quota candidate, already serving as Police Constable, under the State and hence, ineligible to claim the preference given to person studied in Tamil Medium, and meant only for first appointment to

any service, under the State.

19. As regards the procedure to be followed, the Inspector General of Police & Member Secretary, Tamil Nadu Uniformed Services Recruitment Board, Chennai-2, in the counter affidavit filed in W.P.(MD) No. 22121 of 2015, has stated as follows:

"10. It is submitted that the first cut off mark published in the ratio of 1:5 is generally quiet high for the following reasons.

a. There are larger number of candidates (i.e.) around 1.5 Lakh candidates participated in the written test and 70% of them cleared the written examination by obtaining the minimum of 25 marks (open-quota).

b. There is stiff competition among candidates. Moreover there is adequate number of candidates available under each quota (General, Sports and Wards and each community and gender segment) for filling up 1:5 ratio. Hence the cut off in the written examination is quite high for general quota candidates.

However, the cut off is lower for special quota (sports, Police wards and Ministerial wards) candidates in reserved communities.

c. For example, for MBC woman categories under different quotas (180 General, 30 Sports and 30 Wards) we had more than 5000 MBC women candidates.

11. It is submitted that the second cut off mark is applied after completion of PET to admit the candidates for viva-voce, which is restricted to 1:2 ratio (i.e.) only 2 times of the vacancies. Generally the second cut off mark goes down in certain segments on account of the following factors.

a. There are lesser numbers of candidates competing at the PET stage.

b. Overall, only 5448 candidates compete at the PET stage as against 1.5 lakh candidates at the written examination stage.

a. Moreover there is substantial percentage of disqualification at PMT/ET/PET stage.

b. Hence the number of candidates who qualify after the second stage is reduced substantially by 50-60%.

12. It is also submitted that the reservation system followed by the TNUSRB is complex as there are

a. Departmental Quota- 20%

b. Sports Quota-10%

c. Wards Quota -10% (10% of wards quota is being allotted to the wards of ministerial staff working in Police department)

d. 30% reservation for women.

e. Communal reservation (BC-MBC is also provided within each quota).

f. Finally we have 20% reservation on preferential basis for within each quota community gender segment for candidates who had studied Tamil Medium.

13. It is submitted that the sequence of filling of vacancies in 1:5 ratio slots/1:2 ratio slots has to be done in a prescribed manner which is enumerated below:-

14. It is submitted that the general turn GT-General of 31% (OC) has to be filled first. It comprises of all top meritorious candidates irrespective of Community or Gender or Special Quota. It means that even a reserved candidate who has applied under special quota if meritorious can occupy the slot meant for GT General. After filling the top meritorious candidates in the General turn, the vacancies for GT-Woman is filled up followed by BC-General in the sequence described in the above said table.

15. It is submitted that around 5448 candidates only took part in the second stage (PMT/ET/PET) of which around 1669 candidates only at the ratio of 1:2 were called for Viva-Voce. Moreover after disqualification in the Physical Efficiency Test the competition among the candidates got narrowed down to the next stage. Hence, it is natural that the cut off tends to reduce in certain categories where the competition is very less.

16. It is submitted that when 1:2 slots and provisional select list are filled as per the sequence explained in Para No. 15, the top meritorious candidates irrespective of community/gender/special quota migrate to the slot meant for (GT) General Turn. Hence most of the candidates under special quotas and community reservation get adjusted in the slots of GT-General or Community General segment on account of their merit due to large number of disqualifications at the PET stage. These candidates of special quotas already had lower cut off as compared to the General Quota candidates of the same community and gender. Hence, the cut offs naturally go down.

17. It is submitted that Sports and Wards Quota are parts of the open quota. These are called special quotas. These are not separate quotas and examination is the same. If a sports quota/wards quota candidate performs better, he may be selected under general quota on merit as per the standard procedures followed by all recruiting agencies including UPSC and TNPSC. The Sports and Wards quota candidates who score higher marks in written examination than the general cut off mark are called under general quota. Hence generally the sports and wards quota have lower cut off marks due to lesser competition.

.....

19. It is also submitted that 20% of all vacancies is to be filled on preferential basis with persons studied in Tamil medium (PSTM), which is being allotted only during the publication of provisional select list. The sequence of filling the vacancies for the provisional select list is same as that of 1:5 and 1:2 ratio except, the eligible candidates claiming PSTM will be fitted after each category.

Moreover some of the candidates claiming preference as per PSTM also get accommodated in GT General and respective community General slots based on their cutoff marks.

20. It is submitted that 20% of vacancies in each category is allotted to PSTM candidates on preferential basis. Hence, while filling the provisional select list candidates the GT -General candidates has to be filled first and 20% of GT -General has to be allotted to candidates eligible for PSTM. Then GT-Women candidates have to be filled of which 20% has to be filled by eligible PSTM candidates. The PSTM candidates are filled after filling each communal and special quota candidates in the same sequence as explained in Para 13 of this affidavit. Hence it is evident that the candidates having higher score get accommodated in their respective category slots, whereas those with lesser marks get accommodated in slots meant for PSTM. It is submitted that eligible PSTM candidates only get accommodated under PSTM quota.

21. It is also submitted that the preference given to Tamil Medium under PSTM is implemented only at the Final Stage and this Hon"ble Court has dismissed the writ petition in WP. No. 27005/2015 and has held in

Para 5 "A conjoined reading of the aforesaid, thus, show that the benefit which is extended is not a vertical reservation but a preference i.e. if two people are identically situated, the preference would be given to the candidate who studied Tamil as medium of instruction at school level. However, such preference is only for the 20% of the candidates who may be part of the provisional list. "

Para 6 "The petitioner having not fallen within the zone of consideration, the stage for applying this preference has not arisen and it is not the case of vertical reservation."

20. Paragraph No. 25 of the counter affidavit filed in W.P.(MD) No. 22121 of 2015, indicates that the petitioner therein has raised Grounds (A) & (D), that reservation of 20% seats should be extended to departmental quota candidates also, for which, the Inspector General of Police & Member Secretary, Tamil Nadu Uniformed Services Recruitment Board, Chennai-2, has replied that the petitioner is a Departmental quota candidate, who is already in service, under the State and hence, cannot claim PSTM, as per the definition under rule 2(a) of Tamil Nadu Appointment on preferential basis in the Services under the State of Persons Studied in Tamil medium Rules, 2010.

21. On the challenge to the reduction of cut-off marks in Ground (C) & (E) raised therein, the Inspector General of Police & Member Secretary, Tamil Nadu Uniformed Services Recruitment Board, Chennai-2, has stated that the cut-off marks tend to reduce in certain categories, due to multiple stages and elimination at each stage. He has also referred to an order passed by this Court in W.P. Nos. 27923 to 27925 of 2015, with a similar prayer, and at Paragraph 3 of the common order, in the abovesaid writ petition, it is held as follows:-

"The basic reason is stated to be that as against 1078 posts, 1,66,846 persons have applied. For purposes of moving to the next stage of Physical Endurance Test, a ratio 1:5 was applied, i.e., about 5,448 candidates proceeded to the next stage of Physical Endurance Test and for Viva Voce, the cut-off ratio was 1:2. This is coupled with the fact that there would be shifting of quotas, ie., depending on the marks obtained, for say, a Muslim candidate of B.C. Muslim Women could move to the next category of B.C. Muslim General, then B.C. Women, then to B.C. General, then to O.C. Women and then to O.C. General. This is, in turn, depends on how many people have qualified and obtained how many marks in a particular category. It is this phenomena which results in lowering of the cut-off."

22. In sum and substance, in the counter affidavit, to W.P.(MD) No. 22121 of 2015, the Inspector General of Police & Member Secretary, Tamil Nadu Uniformed Services Recruitment Board, Chennai-2, has stated that Departmental candidates are given 20% reservation, in the overall vacancies allotted to them. He has further contended that, "They are allowed to participate in the recruitment process, till the date of 45 years. A separate written examination for 85 marks, is conducted and they are also exempted from physical measurement test and physical efficiency test. A separate scheme for examination, is conducted for departmental quota candidates, as per recruitment rules, and hence, they cannot claim special reservations, viz., sports and wards quota. PSTM is implemented only in final stage, for open quota candidates. It is applicable only to persons, who seek first appointment to any service, and the petitioner therein, being a departmental candidate, cannot claim PSTM, as per the Act 40/2010."

23. Adverting to the abovesaid submissions, after referring to Rules 2 and 3 of the Tamil Nadu Appointment on Preferential Basis in the Services under the State of Persons Studied in Tamil Medium Rules, 2010, the Hon"ble First Bench of this Court, in a common order in W.P.(MD) Nos. 22119 to 22122 of 2015 dated 20.01.2016, at Paragraphs 3 and 4, has ordered as follows:

"3. The aforesaid preferential benefit is sought to be denied to these petitioners on the ground that they are departmental candidates. All such analysis is based on the definition contained in Clause 2(a). As the petitioners are not seeking fresh appointment in service and are already in Government service, they are not given such benefit. Thus, they do not fall within the relevant category and are disentitled on the ground of absence of two point reservation - both as departmental candidates over five years of service and having studied in Tamil at School level.

4. We see nothing wrong in the aforesaid, as this is what the relevant Government Order says and the same has been applied to the present process of recruitment."

24. Rule 2(a) defines "direct recruitment" and it means, first appointment of a person to any service, under the State, in accordance with the rules or

regulations or orders in force. Absolutely, there is no ambiguity in the meaning of the words. Legislature has made it clear, it is for the first appointment to any service, under the State, and it is not with reference to any category, in the same service. The rule, has been interpreted by the Hon"ble Division Bench in the above batch of writ petitions, and clarified that as the petitioners therein were not seeking, fresh appointment in service, and that as they were already in Government service, they are not given such benefits. Thus, it has been held that the petitioners therein, do not fall under the relevant category and therefore, not disentitled on the grounds of absence of two point reservation - both as departmental candidates over five years of service and having studied in Tamil at School level.

25. In the light of the above discussion and decisions, stated supra, this Court is of the view that the petitioner has not made out a case, for a Writ of Declaration, stated supra. Grounds of challenge, have already been considered in W.P.(MD) Nos. 22119 to 22122 of 2015 dated 20.01.2016 by the Hon"ble First Bench of this Court, and the definition, "direct recruitment" has been already considered and answered. Judgment rendered by the Hon"ble First Bench, is squarely applicable to the facts on hand. Merely because, the rule has not been impugned in the earlier proceeding, it is not open to the petitioners to file a fresh writ petition, to declare the rule as ultra vires. Petitioners are bound by the earlier decision.

Accordingly, the Writ Petition is dismissed. No costs. Consequently, W.M.P(MD) Nos. 2445 to 2448 of 2016 are closed.