

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P.Nos.5105, 4430, 4431 & 4518 of 2024

and

W.M.P.Nos.5623, 5624, 4779, 4780, 4787, 4789, 4891, 4893 & 4894 of
2024

(i)W.P.No.5105 of 2024
and
W.M.P.Nos.5623 & 5624 of 2024

J.Sheena

... Petitioner

Vs.

1. Tamil Nadu Public Service Commission,
Rep. By Its Secretary,
TNPC Road, V.O.C. Nagar,
Park Town, Chennai 600003.

2. The Registrar (General),
High Court, Madras -600 104.

... Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India
praying for issuance of a writ of Declaration, declaring that the provisional

select list dated 16.02.2024 for appointment by direct recruitment to the post of Civil Judge in the Tamil Nadu State Judicial Service, issued by the 1st Respondent as illegal, arbitrary and contrary to the judgment rendered by the Apex Court in so far as including the candidate belonging to the MBC, SC and BC (Muslim) who got selected in the open category by obtaining the top score and accommodating them in the seats reserved for MBC, SC and BC(Muslim) respectively and consequently direct the respondents to prepare the fresh list by including the candidates belonging to MBC, SC and BC (Muslim) and who got selected in the Open category by including them in the Open category list and draw the fresh list of candidates for selection to the post of Civil Judge in the Tamil Nadu State Judicial Service Selected pursuant to the Notification No.12/23, Advertisement No.661, dated 01.06.2023 and proceed to fill up the vacancies on that basis.

For Petitioner : Mr.Balan Haridas

For Respondents : Mr.R.Bharanidharan,
Standing Counsel for TNPSC (for R1);
Mr.B.Vijay (for R2)

(ii)W.P.No.4430 of 2024
and
W.M.P.Nos.4779 & 4780 of 2024

P.Shri Dharshini

... Petitioner

Vs.

1. The State Of Tamil Nadu,
Rep. By Its Additional Chief Secretary To Government,
Home (Courts -I) Department,
Secretariat, Fort St. George, Chennai-09.

2. The Registrar General,
Madras High Court, Chennai-104.

3. The Secretary,
Tamil Nadu Public Service Commission,
VOC Nagar, TNPSC Road,
Park Town, Chennai- 03.

... Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, to call for the records relating to the impugned provisional Selection List Published by the 3rd Respondent in No. Nil dated 16.02.2024 and to quash the same and consequently direct the 3rd Respondent to arrive the Selection list by preparing list of Candidates under General Turn at the first instance in consideration of meritorious candidates irrespective of Community, followed by Backlog Vacancies and Communal Vacancies under Regular list, in accordance with ratio laid down by Hon'ble Supreme Court of India in State of Tamil Nadu Vs. K. Shobana reported in 2021 (4) SCC 686 and thereby considering the Petitioner for selection to the Post of Civil Judge under SC Reserved Category.

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

For Respondents : Mr.T.Chandrasekaran,
Special Government Pleader (for R1)

Mr.B.Vijay (for R2)

Mr.R.Bharanidharan,
Standing Counsel for TNPSC (for R3)

(iii)W.P.No.4431 of 2024
and
W.M.P.Nos.4787 & 4789 of 2024

1. D.Dinesh,

2. M.Gokul Mithun Kumar,

3. S.Adhu Siva Subramanian,

4. P.Jesu Balan,

... Petitioners

Vs.

1. The State Of Tamil Nadu,
Rep. By Its Additional Chief Secretary To Government,
Home (Courts -I) Department,
Secretariat, Fort St. George, Chennai-09.

2. The Registrar General,
Madras High Court, Chennai-104.

3. The Secretary,
Tamil Nadu Public Service Commission,
VOC Nagar, TNPSC Road,
Park Town, Chennai- 03.

... Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, to call for the records relating to the impugned provisional Selection List Published by the 3rd Respondent in No. Nil dated 16.02.2024 and to quash the same and consequently direct the 3rd Respondent to arrive the Selection list by preparing list of Candidates under General Turn at the first instance in consideration of meritorious candidates irrespective of Community, followed by Backlog Vacancies and Communal Vacancies under Regular list, in accordance with ratio laid down by Hon'ble Supreme Court of India in State of Tamil Nadu Vs. K. Shobana reported in 2021 (4) SCC 686 and thereby considering the Petitioner for selection to the Post of Civil Judge under MBC/DNC Reserved Category.

For Petitioners : Mr.G.Sankaran, Senior Counsel for
Mr.S.Nedunchezhiyan

For Respondents : Mr.T.Chandrasekaran,
Special Government Pleader (for R1)

Mr.B.Vijay (for R2)

Mr.R.Bharanidharan,
Standing Counsel for TNPSC (for R3)

(iv)W.P.No.4518 of 2024
and
W.M.P.Nos.4891, 4893 & 4894 of 2024

1. R.Sushmitha

2. E.Swetha

3. H.Nadia Fathima ... Petitioners

Vs.

1. The State Of Tamil Nadu,
Rep.By Its Additional Chief Secretary To Government,
Home (Courts I) Department,
Fort St. George, Chennai-09.

2. The Secretary,
Tamil Nadu Public Service Commission,
Tamil Nadu Public Service Commission Road,
V.O.C. Nagar, Chennai-03.

3. The Registrar General,
High Court Of Judicature At Madras,
High Court Buildings, Chennai- 104. ... Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, calling for the impugned list dated 16.02.2024 published by the 2nd Respondent Commission to the Post of Civil Judge by Notification No.12/2023 dated 01.06.2023 and quash the same so far as the application of reservation for backlog vacancies is concerned and consequently, direct the 2nd

Respondent Commission to redo the select list by first filling up the General Turn and then backlog vacancies and thereafter the various communal categories as mandated in Sec 27 (F) of the Tamil Nadu Government Servant Conditions of Service Act 2016 and select and appoint the petitioners to the Post of Civil Judge in the MBC Category (Petitioner Nos. 1 and 2) and BC Muslim Category (3rd petitioner) if they come within the zone of consideration upon redoing of the Select list.

For Petitioners : Mr.Dakshini Reddy, Senior Counsel for
Mrs.N.Suneetha

For Respondents : Mr.T.Chandrasekaran,
Special Government Pleader (for R1)

Mr.R.Bharanidharan,
Standing Counsel for TNPSC (for R2)

Mr.B.Vijay (for R3)

COMMON ORDER

(Order of the Court was delivered by S.M.Subramaniam J.)

The provisional select list, published by the Tamil Nadu Public Service Commission, for selection and appointment to the post of Civil Judge (Junior Division) in the Tamil Nadu State Judicial Services, is under challenge in all these writ petitions.

2. The writ petitioners had participated in the process of selection and were successful in the preliminary examination, main examination and were allowed to participate in the interview/viva voce. The Marks obtained by the writ petitioners are not in dispute nor challenged. The procedures followed for conducting preliminary examination, main examination and interview/viva voce are also not in dispute and remain unchallenged.

3. The area of controversy in all these writ petitions are regarding the implementation of Reservation under Section 27(f) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 and the general rule of reservation to be adopted for carried forward vacancies and current vacancies.

4. Let us now look into the notification issued by the Tamil Nadu Public Service Commission, in Notification No.12 of 2023, dated 01.06.2023, inviting applications from the eligible candidates for selection and appointment to the post of Civil Judge in the Tamil Nadu State Judicial Service.

5. Notification states about vacancies, pay scale and distribution of vacancies, extracted as under:

“ **1. VACANCIES AND PAY SCALE**

The vacancies have been arrived at as 245, by taking into account the guidelines given by the Hon'ble Supreme Court in Malik Mazhar Sultan vs. U.P.Public Service Commission [(2008)17 SCC 703], for the cadre of Civil Judge, in the Pay Scale of Rs.27,700-770-33,090-920-40,450-1080-44,770 + Allowances, as admissible under the Rules.

<i>Name of the Post</i>	<i>Name of the Service</i>	<i>No. of Vacancies</i>	<i>Scale of Pay</i>
<i>Civil Judge (Post Code. 2089)</i>	<i>Tamil Nadu State Judicial Service (Service Code No.060)</i>	<i>245 (including 92 carried forward vacancies)</i>	<i>Rs.27,700-770- 33,090-920-40450- 1080-44770</i>

Unless and otherwise specified, the number of vacancies notified is approximate and is liable to modification as indicated in para.11-A of 'Instructions to Applications'.

2. DISTRIBUTION OF VACANCIES

The Rule of reservation of appointment is applicable for this recruitment. The distribution of vacancies is put up at ANNEXURE (DV).

(i) First, the selection will be made for '92' carried forward vacancies. [Section 27 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016].

(ii) Secondly, the selection will be made for '153' regular vacancies following the rule of reservation.”

6. With reference to the distribution of vacancies, ANNEXURE (DV), enclosed along with the notification, is provided as under :

ANNEXURE - DV

Distribution of Vacancies for the post of Civil Judge in the Tamil Nadu State Judicial Service

Carried Forward Vacancies

GT(G)(LV)	1
BC(G)	27
BC(G)(HH)	1
BC(G)(LV)	1
BC(G)(LD/LC/DF/AC)	2
BCM(G)	7
MBC/DC(G)	32
MBC/DC(G)(LD/LC/DF/AC)	1
MBC/DC(G)(LV)	1
SC(G)	14
SC(G)(HH)	1
ST(G)	4
TOTAL	92

Regular Vacancies for 2021

GT(G)	24
GT(G)(PSTM)	7
GT(DAP)(HH)	1
GT(W)	10
GT(W)(PSTM)	4
GT(W)(DAP)(LD)(Others)	1
BC(OBCM)(G)	22
BC(G)(PSTM)	6
BC(OBCM)(W)	9
BC(OBCM)(W)(PSTM)	2
BC(OBCM)(W)(DAP)(HH)	1
BC(M)(G)	3
BC(M)(PSTM)	1
BC(M)(W)	2
MBC/DC(G)	15
MBC/DC(G)(PSTM)	4
MBC/DC(G)(DAP)(LV)	1
MBC/DC(G)(DAP)(LD)(Others)	1
MBC/DC(W)	7
MBC/DC(W)(PSTM)	2
SC(G)	12
SC(G)(PSTM)	4
SC(W)	4
SC(W)(PSTM)	2
SC(W)(DAP)(LV)	1
SC(A)(G)	3
SC(A)(G)(PSTM)	1
SC(A)(W)	1
ST(G)	1
ST(G)(PSTM)	1
TOTAL	153

7. The respective learned Senior Counsels appearing on behalf of the writ petitioners, Mr.G.Sankaran, Mrs.Dakshini Reddy and learned counsel Mr.Balan Haridas would submit that the procedures adopted for filling up of the backlog vacancies and the current vacancies are erroneous and directly in violation of the legal principles settled by the Hon'ble Supreme Court of India and the Division Bench of the Madras High Court. 92 vacancies are declared as carry forward vacancies for which Section 27(f) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 would apply. In respect of 153 current vacancies notified, the rule of reservation will be applied.

8. Let us firstly consider the scope of Section 27(f) of Tamil Nadu Government Servants (Conditions of Service) Act, 2016 (herein after referred as ACT).

9. Section 27(f), third proviso clause denotes that "*If the required number of candidates belonging to such communities are not available even then, the vacancies for which selection could not be made shall remain unfilled until the next recruitment year treating them as "backlog" vacancies. In the subsequent year, when direct recruitment is*

*made for the vacancies of that year, namely, the current vacancies, the “backlog” vacancies shall also be announced for direct recruitment, keeping the vacancies of the particular recruitment year, namely, the current year vacancies and the “backlog” vacancies as two distinct groups as illustrated in Schedule-IX. **The selection for appointment for the next direct recruitment shall be made first for the “backlog” vacancies and then the normal rotation shall be followed;***

10. The interpretation of the last sentence in the third proviso to Section 27(f) is no more res integra. The word "first" for the "backlog" vacancies are interpreted by the Hon'ble Supreme Court of India in the case of *State of Tamil Nadu vs. K.Shobana and others, reported in (2021) 4 SCC 686*. The relevant paragraphs are extracted hereunder:

“ 6. Section 27(f) propagates the social philosophy of vacancies for reserved category not lapsing in case there are inadequate number of candidates. Thus, instead of offering it to the general category, a provision has been made to carry forward those vacancies for one year. In case even in the succeeding year, these vacancies are not filled in, then it goes to other categories. However, crucial issue arises from the last sentence of the third proviso to Section 27(f) which provides for

the selection of appointment for the next direct recruitment to be made “first for backlog vacancies and then the normal rotation shall be followed”. Meaning, thus, has to be assigned to what is implied by the expression “first” vis-à-vis the backlog vacancies.

7. It is the case of the appellants that the clear provisions of the section must be given effect to, which in turn, would imply that on the basis of merit the backlog vacancies had to be first filled in. After those vacancies were filled, the appointment had to be made on merit in the general turn. Thus, such of the candidates who made it on merit, would be adjusted against those seats, while the remaining would be adjusted against the reserved vacancies.

...

11. The learned Senior Counsel sought to contend that the expression used in Section 27(f) of the Act must be given its natural meaning and the word “first” had been used by the legislature in its wisdom and with an intent which could not be made otiose.

...

19. The learned counsel also sought to contend that insofar as Tamil Nadu is concerned, the matter was settled long time back by the judgment of the High Court in K.R. Shanthy v. State of T.N. [K.R. Shanthy v. State of T.N., 2012 SCC OnLine Mad 5451 : (2012) 7 MLJ 241 paras 14, 18 and 19: SCC OnLine Mad paras 14 & 18-23, incidentally authored by S. Nagamuthu,

J., as he then was, though of course the principle of promissory estoppel cannot apply while he raises his contentions!] It was clearly observed that candidates selected on merit under open quota should not be adjusted against reserved vacancy and the inter se seniority of candidates selected and appointed in that selection should be only on merit and not on the basis of roster points. It would be relevant to extract the steps which were opined as required to be taken and set out in para 14: (SCC OnLine Mad)

“14. A perusal of the above judgments would keep at least two things beyond any pale of doubt. Firstly, the roster is not vacancy based, but the same is only post based. It identifies the number of posts earmarked for various categories under the vertical reservations and posts left behind for open quota as well as special reservations. Secondly, after so identifying the posts, it should be calculated as to how many vacancies are to be filled up under various categories in the current selection. If once the number of vacancies earmarked for each category in the current selection is identified by using the roster, thereafter the roster will have no further role to play in the matter of selection. After identifying the number of vacancies earmarked for various categories, the selection for each category has to be made purely based on merit following the method detailed below:

First Step:

(i) As against the number of vacancies identified for open quota, irrespective of caste, sex, physically challenged, etc. everyone should be allowed to compete based on merits.

(ii) The meritorious candidates should be first selected as against the above vacancies under open quota.

Second Step:

(iii) After completing the first step, moving on to the vertical reservation categories, selection has to be made for each category from amongst the remaining candidates belonging to the particular reserved category (vertical) based on merits.

Third Step:

(iv) After completing the second step, horizontal reservation which cuts across the vertical reservation has to be verified as to whether the required number of candidates who are otherwise entitled to be appointed under the horizontal reservation have been selected under the vertical reservation.

(v) On such verification, if it is found that sufficient number of candidates to satisfy the special reservation (horizontal reservation) have not been selected, then required corresponding number of special reservation candidates shall have to be taken and adjusted/accommodated as against social reservation categories by deleting the corresponding number of candidates therefrom.

(vi) Even while filling up the vacancies in the vertical reservation, if, sufficient number of candidates falling under the horizontal reservation have been appointed, then, there will be no more appointment exclusively under the horizontal reservation.

Caution:

(vii) At any rate, the candidates who were selected as against a post under open quota shall not be adjusted against the reserved quota under vertical reservations.”

...

22. *First, we would like to turn to the judgment [K. Shobana v. State of T.N., 2020 SCC OnLine Mad 9800] of the learned Single Judge which, in our view, is absolutely lucid and*

clear to the controversy and the conclusion. The learned Single Judge set forth the controversy in the first paragraph itself i.e. whether the candidates who secured high marks should have been fitted in the general turn but have been fitted in MBC/DNC quota for the last year, which in turn has deprived certain candidates of selection. It has been rightly noted that the entire confusion has arisen due to the wrong reading of provisions of Section 27 of the Act, which provides for reservation for appointment. Section 27(f) merely states that if the required number of candidates belonging to the community which fall under reservation are not available, then, the vacancies, for which selection could not be made in the current year, should be treated as backlog vacancies. In the subsequent recruitment, the backlog vacancies and the current vacancies for the particular community must be separately announced, and the direct recruitment must first accommodate the backlog vacancies and thereafter only, the current vacancies have to be accommodated. The provision had been read by the appellants as if the backlog vacancies must be filled in by MBC/DNC category candidates, irrespective of the merit of the candidate or the rank secured by him/her. The highest mark that was secured was 109 and, up to 90 marks, the candidates were fitted in general turn and thus those candidates will have to be selected under the general turn, irrespective of their community. It is these candidates who had been fitted in the backlog vacancy which has caused the problem.

24. *We are in complete agreement with the view taken by the courts below as there really could not have been any cavil to the aforesaid. The principle that such of the reservation category candidates who make it on their own merit have to be adjusted against the general category candidates has not been in doubt or argued in view of the catena of judgments cited aforesaid. In our view, Section 27(f) of the Act cannot be read in a manner, apart from any other reason, to negate this very principle.*

25. *It has been rightly pointed out by the learned counsel for the respondents that the issue arising from seniority of filling the backlog vacancies first was not even urged in the courts below and was sought to be raised for the first time before this Court, and elaborately at that, which plea finally fizzled out, as it was conceded that there is no factual basis for the same.*

26. *There can be no doubt about the proposition that if a word is used in a statute, it cannot be made otiose as held in Hardeep Singh [Hardeep Singh v. State of Punjab, (2014) 3 SCC 92, paras 42 to 45 : (2014) 2 SCC (Cri) 86] . However, that is not the factual scenario in this case. The question arises as to at which stage would Section 27 of the Act operate, and where in the list, the application of the “first” principle would apply. Section 27 deals with the reservation. It has nothing to do with the general candidates list/General Turn vacancies. Such of the candidates who have made it on their own merit albeit, from*

reserved category, have not sought the benefit of the reservation. Thus, Section 27 of the Act would have nothing to do up to that point. Section 27 would apply only when the reservation principle begins, which is after filling up of the seats on merit. Thus, the word “first” would apply at that stage i.e. the backlog vacancies have to be filled in first and the current vacancies to be filled in thereafter. At the stage when the general category seats are being filled, there is thus no question of any carry forward or current vacancies for reserved category arising at all.

27. We may also note that the manner of filling up the seats has been well enunciated in the judgment in K.R. Shanthi case [K.R. Shanthi v. State of T.N., 2012 SCC OnLine Mad 5451 : (2012) 7 MLJ 241 paras 14, 18 and 19: SCC OnLine Mad paras 14 & 18-23, incidentally authored by S. Nagamuthu, J., as he then was, though of course the principle of promissory estoppel cannot apply while he raises his contentions!] by the Madras High Court itself and appears to have been consistently followed. May be the peculiarity of the situation arising in Chemistry subject (which is in question) gives rise to this problem in the current year and such a problem had not apparently arisen earlier. In fact, there is no manner of doubt after the latest judgment of this Court in Saurav Yadav case [Saurav Yadav v. State of U.P., (2021) 4 SCC 542] which again refers to the steps which have to be taken to fill in those

vacancies. The steps are clear in their terms: in the given facts of the case, application of those principles or steps would imply:

- (a) the general merit list to be first filled in;*
- (b) the backlog vacancies of the particular reserved category to be thereafter filled in “first”; and*
- (c) the remaining reserved vacancies for the current year to be filled thereafter.*

11. The above said judgement of the Apex Court, in unequivocal terms, reiterates that the meritorious candidates/toppers are to be placed under the general category as the legal principles are settled in this regard. Toppers, in the order of merit ranking, cannot be placed under the reserved category merely on the sphere of filling up of backlog vacancies. Thus, on preparation of merit list/ranking list, the meritorious candidates, who scored highest marks, must be accommodated under the general category at the first instance and thereafter, other candidates are to be accommodated in the carry forward vacancies, as per the quota earmarked and remaining vacancies are to be filled up against the current vacancies.

12. The Hon'ble Supreme Court of India, in the above judgement, in

paragraph 26 has clarified that “*At what stage the application of the "first" principle would apply. Section 27 deals with the reservation. It has nothing to do with the general candidates list/general turn vacancies. Such of the candidates who have made it on their own merit albeit, from the reserve category, have not sought the benefit of the reservation. Thus, Section 27 of the Act would have nothing to do up to that point. **Section 27 would apply only when the reservation principles begins, which is after filling up of the seats on merit.** Thus, the word "first" would apply at that stage i.e. the backlog vacancies have to be filled in first and the current vacancies are to be filled in thereafter. At the stage when the general category seats are being filled, there is thus, no question of any carry forward or current vacancies for reserved categories arising at all.*”

13. In view of the declaration of legal principles and interpretation of Section 27(f) of the Act 2016, we have to test the procedures adopted by the Tamil Nadu Public Service Commission for preparation of provisional select list for appointment to the post of Civil Judge in Tamil Nadu State Judicial Service.

14. The respective learned Senior Counsels for the petitioners would solicit our attention with reference to the preparation of provisional select list by the Tamil Nadu Public Service Commission and further demonstrated that the provisional select list has not been prepared in accordance with the spirit of Section 27(f) of the Act 2016 and the ratio laid down by the Supreme Court, in the case of ***K.Shobana***. To demonstrate, the following details are provided:

“10. It is submitted that out of the 34 vacancies in the open category, the following 12 candidates belonging to MBC have secured marks (Written Examination/Oral Test) within the cut off for that category. Their details are as follows:

SL.NO.	REGISTRATI ON NUMBER	CATEGORY	GENDER	MARKS
1	0101007203	MBC	MALE	315.5
2	2501004140	MBC	FEMALE	312.5
3	1901001166	MBC	FEMALE	310
4	1001005299	MBC	MALE	305.5
5	0101014054	MBC	FEMALE	304.5
6	2801002201	MBC	MALE	299
7	0101011266	MBC	FEMALE	298.5
8	1701002008	MBC	FEMALE	298.5
9	0201002177	MBC	MALE	298
10	2601004256	MBC	FEMALE	297

SL.NO.	REGISTRATI ON NUMBER	CATEGORY	GENDER	MARKS
11	1701001002	MBC	FEMALE	290.5
12	0101009261	MBC	MALE	290

15. Relying on the above details, it is contended that the top scorers of the merit ranking list in the selection process, are accommodated under the reserve category of MBC instead of accommodating them under the general category. This resulted in an anomaly, wherein many other eligible candidates are deprived of their opportunity for inclusion of their names in the provisional select list based on the rule of reservation. In other words, on account of erroneous application of Section 27(f), other reserved candidates lost their opportunity for inclusion of their names in the select list.

16. The learned Standing Counsel, appearing for Tamil Nadu Public Service Commission, based on the written instructions, would submit that the cut off mark for the general category is 274.500. Therefore, it is unambiguous that the top scorers were accommodated under the reserved category and candidates who scored lesser marks were accommodated under the general category, which is running counter to the

reservation policy and in violation of Section 27(f) of the Act 2016, as interpreted by the Hon'ble Supreme Court of India, in the case of ***K.Shobana***.

17. The Tamil Nadu Public Service Commission has misconstrued the scope of Section 27(f) of Act 2016 and erroneously accommodated the top rank holders in the merit list under the reserved category posts and provided general category posts to other candidate, who scored lesser marks. This anomaly in preparation of the provisional select list for appointment to the post of Civil Judge, came to be challenged.

18. The methodology adopted by the Tamil Nadu Public Service Commission is a clear violation of the scope of Section 27(f), as interpreted by the Apex Court of India. Further, erroneous placing of candidates, both under the general category and under the reserved category, resulted in denial of opportunity to several other candidates, who all are otherwise eligible for inclusion of their respective names, either under the general category or under the reserved category, based on the marks scored.

19. Since the procedures as contemplated for selection, conduct of

selection and publication of marks are not in dispute, we are not inclined to adjudicate other grounds raised in all these writ petitions. The ground mainly emphasised, on behalf of the petitioners, is about the implementation of the rule of reservation and the methodology adopted for publication of provisional select list, under Section 27(f), as interpreted by the Hon'ble Supreme Court of India and the rule of reservation, generally to be followed for current vacancies.

20. Violation of Section 27(f) of the Act 2016 is apparently visible on mere perusal of the methodology adopted for preparation of provisional select list. Thus, we could arrive at an inevitable conclusion that the provisional select list, published by the Tamil Nadu Public Service Commission, is infirm and to be redrawn by placing the toppers in the merit ranking list under the general category candidates in tune with the interpretation given by the Hon'ble Supreme Court in *K.Shobana's* case, more specifically, in paragraph 26 of the judgement.

21. Publication of provisional select list would confer no right of appointment. Select list is only a final process and admittedly no appointment order has been issued. It is made clear that we have not

granted any individual relief of selection or appointment to any candidate and our endeavour is to ensure that the Reservation, as contemplated under Section 27(f), has been followed scrupulously by the Tamil Nadu Public Service Commission, while drawing the provisional select list. Therefore, it is not necessary to implead any of the candidates, who all have already found place in the provisional select list. The redrawing of provisional select list is to be made by scrupulously following the merit ranking as awarded to the respective candidates and by adopting rule of reservation in a right perspective.

22. Accordingly, following orders are passed. :-

(i) the Tamil Nadu Public Service Commission is directed to cancel the provisional select list, already published on 16.02.2024, forthwith. T.N.P.S.C. is directed to prepare a revised provisional select list by accommodating the top ranked candidates in the merit list under the general category and thereafter, accommodate the candidates against the carried forward vacancies as per the quota notified for backlog vacancies and thereafter place the remaining candidates against the current vacancies by adopting the Rule of Reservation.

(ii) The revised selection list, as directed above, shall be prepared

scrupulously by following the ratio laid down by the Hon'ble Supreme Court in the case of *K.Shobana* cited supra.

(iii)The revised provisional select list is directed to be published, within a period of two weeks from the date of receipt of a copy of this order. All further proceedings shall be initiated thereafter.

23. In terms of the above directions, all the Writ Petitions are allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S.J.,)

(K.R.S.J.,)

27.02.2024

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
(sha)

To

1. Tamil Nadu Public Service Commission,
Rep. By Its Secretary, TNPC Road,
V.O.C. Nagar, Park Town, Chennai 600003.

2. The Registrar (General),
High Court, Madras -600 104.

3. The State Of Tamil Nadu,
Rep. By Its Additional Chief Secretary To Government,

Home (Courts -I) Department,
Secretariat, Fort St. George, Chennai-09.

4. The Secretary,
Tamil Nadu Public Service Commission, VOC Nagar,
TNPSC Road, Park Town, Chennai- 03.

W.P.Nos.5105, 4430, 4431 & 4518 of 2024

S.M.SUBRAMANIAM, J.

and

K.RAJASEKAR, J.

(sha)

W.P.Nos.5105, 4430, 4431 & 4518 of 2024

27.02.2024