

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 31.03.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K.SAMPATHKUMAR

Writ Petition Nos.16581, 17152, 21439,
25052, 27245 & 26764 of 2004; 6621, 38385,
38386 and 39640 of 2005

and

W.P.M.P.No.25924, 30576/04 & 7183 of 2005

S. Saravanan Petitioner in WP NO. 16581/04
V. Arjunan Petitioner in WP Nos. 17152/04 38385/05
D. Kannan Petitioner in WP NO. 21439/04
1. C. Senthil Kumar
2. S. Ravikumar
3. M. Gopu Madhavan
4. P. Sasikumar
5. N. Kanagaraj Petitioner in WP NO. 25052/04
S. Muthukumar Petitioner in WP NO. 27245/04
Ketharnath Petitioner in WP NO. 26764/04
T.V. Saravanan Petitioner in WP NO. 6621/05
K. Ketharnath Petitioner in WP NO. 38386/05
S. Saravanan Petitioner in WP NO. 39640/05

VS

The Secretary
Tamil Nadu Public Service
Commission, Chennai 2

1st Respondent in WP Nos. 16581,
17152, 21439, 25052, 27245 of 2004

3rd Resondent in WP NO. 26764/04

6621, 38385, 38386 of 2005

2nd Respondent in WP NO. 39640/05

The Secretary to Government
Home (Transport) Department
Fort saint George, Chennai 9

2nd Respondent in WP NO. 16581,
21439, 25052, 27245 of 2004

3rd Respondent in WP NO. 17152/04

1st Respondent in WP NO. 26764/04, 38385,
38386, 39640 of 2005

The Controller of Examination
Tamil Nadu Public Service Commission
Chennai 600 002

3rd Respondent in WP NOS. 16581, 21439,
25052, 27245 of 2004 and 39640/05.

2nd Respondent in WP NO. 17152, 26764 of
2004, 38385, 38386 of 2005

The Registrar
Tamil Nadu Administrative Tribunal
Chennai 600 104.

4th Respondent in WP NO. 17152/04

The Secretary to Government
Home Transport II
Fort Saint George
Chennai 600 009.

1st Respondent in WP NO. 6621/05

The Transport Commission,
Chepauk, Chennai 600 005.

2nd Respondent in WP NO. 6621/05

petition under Article 226 of the Constitution of India praying
that in the circumstances stated therein and in the respective
affidavits filed therewith the High Court will be pleased to issue
writ of certiorari Mandamus:

i. calling for the records of the order of the Tamil Nadu Administrative Tribunal, Chennai dated 16.4.2004 in O.A.No.1266 of 2004 and the notice dated 9.3.2004 published in Dinamani by TNPSC/ first respondent regarding the selection of candidates for the oral test for recruitment to the post of Motor Vehicle Inspector Grade II, in Tamil Nadu Subordinate Service for the year 1999/2000, quash the same and direct the respondents to fill up 38 vacancies which were published for the year 1999/2000 by calling the candidates in 1:3 ratio as per notification dated 1.9.1999 (WP.16581/2004)

ii. calling for the records of the respondents in connection with the impugned order passed by the 4th Respondent in O.A.No.1404 of 2004 dated 16.4.2004 by confirming the notification issued by the second respondent dated 9.3.1999 for selection to the post of Motor Vehicle Inspector, Grade II for the year 1999-2000 and quash the same and further direct the respondents to select and appoint the petitioner as Motor Vehicle Inspector, Grade II, in the Tamil Nadu Transport Subordinate Service (WP.No.17152/2004)

iii. calling for the notice dated 9.3.2004 published in Dinamani by TNPSC regarding the selection of candidates for oral test and the notice dated 8.7.2004 published in Hindu by Tamil Nadu Public Service Commission regarding selected candidates for appointment to the post of Motor Vehicle Inspector Grade II in Tamil Nadu Transport Subordinate Services for the year 1999/2000 and quash the same and direct the respondents to fill up 38 vacancies which were published for the year 1999/2000 by calling the candidates in 1:3 ratio as per notification dated 22.7.1999 (WP.21439, 25052, 27245 OF 2004)

iv. calling for the records of the respondents in connection with the impugned notification issued by the second respondent dated 9.3.2004 published in Daily Thanthi dated 9.3.2004 for selection to the post of Motor Vehicle Inspector, Grade II for the year 1999-2000 and quash the same and further direct the respondents to select and appoint the petitioner as Motor Vehicle Inspector, Grade II in the Tamil Nadu Transport Subordinate Service (WP.26764/2004)

v. calling for the records of the third respondent relating to his publication dated 7.7.2004 in the newspaper Dhinanthanthi the result of selection with respect to the post of Motor Vehicle Inspector, Grade II in the Tamil Nadu Motor Transport Subordinate Service 1999-2000 and the consequential proceeding of the second respondent No. 47617/T1/2004 dated 1.2.2005 and quash the same and direct the second and third respondent to select 38 persons from among the candidates selected for the post of Motor Vehicle Inspector Grade II in the Tamil Nadu Motor Transport Subordinate Service 1999-2000 (WP.6621/2005)

vi. calling for the records of the respondent in connection with the impugned order passed by the first respondent in Letter No.82592/Tr.II/02-8 dated 6.1.2004 and quash the same and further direct the respondents to finalise the selection for 38 notified vacancies for the post of Motor Vehicle Inspector, Grade II (Wp.NOS.38385, 38386 and 39640 of 2005)

Mr.R.Gandhi, Senior Counsel for Mr.M.Elango -
For Petitioners in W.P. Nos.16581, 21439,
25052, 27245 /04 and 39640/2005.

Mr.K.Venkatramani - For petitioners in
W.P. Nos.17152/2004,26764/04, 38385 and 38386/05.

Mr.S.Kadarkarai - For petitioner in WP.6621/2005

Mr.D.Krishnakumar, Special Govt. Pleader -
For State in all the WPs.

Mr.R.Sureshkumar - For TNPSC in all the WPs.

COMMON ORDER

P. SATHASIVAM, J.

Aggrieved by the proceedings of the Secretary, Tamil Nadu Public Service Commission, Chennai, published in the News Paper 'Dhina Thanthi', dated 07.07.2004, relating to the result of selection to the post of Motor Vehicles Inspector Grade-II and the consequential proceeding of the second respondent - Transport Commissioner, Chepauk, Chennai, dated 01.02.2005, the petitioners have filed the above Writ Petitions to quash the same and issue direction to respondents-2 and 3 to select 38 persons from among the candidates selected for the post of Motor Vehicles Inspector, Grade-II, in the Tamil Nadu Motor Transport Subordinate Service 1999-2000.

2. Since the issue raised in all these Writ Petitions is one and the same, viz., questioning the decision of the Government in confining the selection with only 20 persons to the post of Motor Vehicles Inspector Grade-II when advertisement made was for recruitment against 38 vacancies, the Writ Petitions are being disposed of by the following common order.

3. For the purpose of convenience, we shall refer the case of the petitioner in Writ Petition No.6621 of 2005.

According to him, the third respondent/Tamil Nadu Public

Service Commission issued advertisement to fill up 38 posts of Motor Vehicles Inspector Grade-II in the Tamil Nadu Transport Subordinate Service. The advertisement was given in the Newspaper on 31.07.1999. Pursuant to the same, he applied to the third respondent. Selection to the said post was made on the basis of written test and oral interview. The petitioner obtained higher marks than the cut off marks in the written examination and he was called for the interview by the third respondent. The interview took place on 09.06.2004. The third respondent published the marks obtained by each candidate in the Written Test as well as oral interview in the Newspaper on 07.07.2004. Thereafter, the second respondent, by his proceedings dated 01.02.2005, appointed 16 persons as Motor Vehicles Inspector Grade-II. On coming to know the same, the petitioner made enquiries and also requested the third respondent to recruit persons as per the Notification dated 31.07.1999. In the said Notification, it was specifically mentioned that the vacant posts were 38. The selection was completed by the third respondent on 09.06.2004 and this was published on 07.07.2004. Since there was no proper response and no other remedy, he filed W.P. No.6621 of 2005.

4. A common counter affidavit has been filed on behalf of the Secretary, Home (Transport) Department and Transport Commissioner, wherein, it is stated that the Tamil Nadu Public Service Commission (TNPSC), in its Notification dated 22-07-1999, had invited Applications for 38 posts of Motor Vehicles Inspector Grade-II in the Tamil Nadu Transport Subordinate Service for selection under direct recruitment for the year 1999-2000. The written examination was conducted by the TNPSC on 13.11.1999 and 14.11.1999. At that time, the Commission requested the Government to expeditiously confirm the said 38 vacancies so as to enable the Commission to proceed with the selection process. The request of the Commission was examined in the light of the recommendations of the Staff Expenditure Reforms Committee, which has been constituted to study the pattern with reference to work load and it was concluded that recruiting 20 Motor Vehicles Inspectors Gr.II would be sufficient and that selection to the remaining 18 posts can be considered after final orders are passed on the Staff Expenditure Reforms Committee's Report. As per the instructions issued in letter No.82592/Tr.II/02-8, Home Department, dated 06.01.2004, the Commission restricted the selection to 20 Posts. Accordingly, the Service Commission recruited 20 candidates for the post of Motor Vehicles Inspector Grade-II for the year 1999-2000 (instead of 38 posts as already advertised) and the approved list was furnished to the Transport Commissioner, under intimation to the Government. The petitioners failed to note Instruction No.21(a) of the Commission's Instructions to candidates, which reads that the number of vacancies advertised by the Commission is only approximate and is liable to modification with reference to the vacancy position at any time or at the time of the actual

recruitment. Similar request made by the petitioner in W.P. No.16851 of 2002 was negatived by the Tamil Nadu Administrative Tribunal in O.A. No.1266 of 2004.

5. The Tamil Nadu Public Service Commission/third respondent has also filed a separate but identical counter affidavit, stating that the selection of candidates for admission to oral test was made for 20 vacancies as requested by the Government instead of 38 vacancies as already advertised in the Commission's Notification dated 22.07.1999. The Commission also relied on instruction No.21 (a) of the Commission's Instructions to the candidates. Regarding the delay, it is stated that as per paragraph 4(b)(i) of the Notification for the said post, the candidates, who apply for the post, should possess the required experience in addition to the educational qualification prescribed. The Commission has to verify the details of experience furnished by the candidates in consultation with the Transport Commissioner, Chennai, ie., whether the experience certificates furnished by the candidates are genuine and whether the experience claimed by the candidates are as per the specifications notified etc. Only after ascertaining the above factors, the Commission will accept the candidature. According to the Commission, this scrutiny process will consume a considerable time. Further, consequent on the ban order on direct recruitment issued by the Government in G.O.Ms.No.212/Personnel and Administrative Reforms (P) Department, dated 29.11.2001, the Secretary to the Government, Personnel and Administrative Reforms Department, was requested to confirm the vacancies already furnished with Secretaries to the Administrative Departments concerned. In reply, the Government (Home Department), in their letter dated 06.01.2004, requested the Commission to arrange to select 20 candidates for the year 1999-2000 in the said post (instead of 38 as already advertised) and to send the approval list to the Transport Commissioner, under intimation to Government. Accordingly, selection of candidates for admission to oral test was made for 20 vacancies as requested by the Government instead of 38 vacancies as already advertised. It is further stated that the above administrative actions are part of the recruitment process and the same cannot be construed as delay. The Commission can proceed with the selection process only after ensuring all the aspects pertaining to recruitment.

6. We heard Mr.R.Gandhi, learned Senior Counsel and Mr.K.Venkatramani & Mr.S.Kadarkarai, learned counsel, appearing for the respective Writ Petitioners; Mr.D.Krishnakumar, learned Special Government Pleader for the State as well as Mr.R.Sureshkumar, learned counsel for the Tamil Nadu Public Service Commission.

7. Mr.R.Gandhi, learned Senior Counsel and Mr.K.Venkatramani & Mr.S.Kadarkarai, learned counsel, raised the only contention that

having notified in the advertisement the number of candidates to be recruited as 38, there is no justification for reducing the same to 20 especially when vacancy in the post of Motor Vehicles Inspector Grade-II is on increase year to year. They further contended that in view of the fact that the petitioners participated in the written examination and some of them were successful, the third respondent ought to have selected all the 38 persons as called for and that the respondents are not justified in reducing the same to 20. In other words, according to them, on the principle of legitimate expectation, the respondents ought to have considered the case of the petitioners and selected 38 persons as called for.

8. On the other hand, Mr.D.Krishnakumar, learned Special Government Pleader and Mr.R.Sureshkumar, learned counsel for the TNPSC submitted that there is no question of legitimate expectation. According to them, the Government, only after taking note of several aspects including the recommendations of the Staff Expenditure Reforms Committee, decided to recruit only 20 persons in the first phase, making it clear that selection to the remaining 18 posts can be considered after final orders are passed on the report of the Staff Expenditure Reforms Committee, hence, they are fully justified in filling up 20 posts. Thus, according to them, there is no merit in the claim made by the petitioners and they pray for dismissal of the Writ Petitions.

9. We have carefully considered the rival contentions and the materials placed.

10. There is no dispute that in the Advertisement, the TNPSC called for Applications to fill up 38 vacancies in the post of Motor Vehicles Inspector Grade-II in the Tamil Nadu Motor Transport Subordinate Service 1999-2000. However, before completion of the selection, the Service Commission, in order to ensure speedy selection, requested the Government to confirm as to whether the said 38 vacancies are to be filled up as advertised. In the counter affidavit filed by the Deputy Secretary to Government, Home Department, it is explained that the request of the Commission was examined in the light of the recommendations of the Staff Expenditure Reforms Committee, which has been constituted to study the staff pattern with reference to the work load, and subsequently it was concluded that recruiting 20 Motor Vehicles Inspectors Grade-II in the first phase would be sufficient and that selection to the remaining 18 posts can be considered after final orders are passed on the Staff Expenditure Reforms Committee's Report. It is brought to our notice that, as per the instructions issued in letter No.82592/Tr.II/02-8 Home Department dated 06.01.2004, the Commission restricted the selection to 20 posts. Based on the above instruction, the Service Commission recruited 20 candidates for the post of Motor Vehicles Inspector Grade-II for the year 1999-2000 instead of 38 posts as advertised earlier.

11. As rightly pointed out by the learned counsel appearing for the respondents, the Commission, in Instruction No.21(a), has specifically stated as follows:-

" The number of vacancies advertised by the Commission is only approximate and is liable to modification with reference to the vacancy position at any time or at the time of the actual recruitment."

It is also brought to our notice in the form of counter affidavit by the Home (Transport) Department that though written examination was conducted by the TNPSC on 13.11.1999 and 14.11.1999 pursuant to the Commission's Notification dated 22.07.1999, the Commission requested the Government to confirm as to whether selection is to made to fill up all the 38 vacancies as notified. It is further seen that the request of the Commission had been examined by the Government in the light of the recommendations of the Staff Expenditure Reforms Committee, which was constituted to study the staff pattern with reference to work load. It is on the report of the said Committee, the Government concluded that recruiting 20 Motor Vehicles Inspector Grade-II in the first phase would be sufficient and that the remaining 18 posts can be considered after final orders are passed on the report of the Committee. The said instruction was communicated by the Home Department in their letter dated 06.10.2004. Based on the same, the Commission restricted the selection to 20 posts.

12. We have already referred to the Commission's Instructions to the candidates, which make it clear that the number of vacancies advertised is only approximate and the same is liable to modification with reference to the vacancy position at any time or at the time of the actual recruitment.

13. Mr. R.Gandhi, learned Senior Counsel, vehemently contended that in view of the fact that more accidents are taking place every day, it cannot be claimed by the Government that the need to recruit more Motor Vehicles Inspectors Grade-II does not arise. According to him, the vacancy position of the subsequent years clearly shows the necessity to recruit more Motor Vehicles Inspectors Grade-II. In such circumstances, according to him, the petitioners, who wrote the examination pursuant to the Notification, ought to have been considered. He further contended that reduction of the number of posts by the Government is not warranted.

14. In the light of the above factual position, let us consider,

(a) whether the petitioners have established 'legitimate

expectation' ;

(b) whether the Government have power to alter/reduce the number of posts to be filled up; and

(c) the role of the Tamil Nadu Public Service Commission in such event.

15. In the decision reported in AIR 1973 SC 2216 (*State of Haryana v. Subash Chander*), while considering similar contentions in respect of appointment of Subordinate Judges, Their Lordships of the Supreme Court have held as follows:

" 8. One fails to see how the existence of vacancies gives a legal right to a candidate to be selected for appointment. The examination is for the purpose of showing that a particular candidate is eligible for consideration. The selection for appointment comes later. It is open then to the Government to decide how many appointments shall be made. The mere fact that a candidate's name appears in the list will not entitle him to a mandamus that he be appointed. Indeed, if the State Government while making the selection for appointment had departed from the ranking given in the list, there would have been a legitimate grievance on the ground that the State Government had departed from the rules in this respect. The true effect of Rule 10 in Part C is that if and when the State Government propose to make appointments of Subordinate Judges the State Government (i) shall not make such appointments by travelling outside the list and (ii) shall make the selection for appointments strictly in the order the candidates have been placed in the list published in the Government Gazette. In the present case neither of these two requirements is infringed by the Government. They have appointed the first seven persons in the list as Subordinate Judges. Apart from these constraints on the power to make the appointments, rule 10 does not impose any other constraint. There is no constraint that the Government shall make an appointment of a Subordinate Judge either because there are vacancies or because a list of candidates has been prepared and is in existence.

9. It must be remembered that the petition is for a mandamus. This court has pointed out in *Dr. Rai Shivendra Bahadur v. The Governing*

Body of the Nalanda College, 1962 (2) Supp SCR 144=(AIR 1962 SC 1210), that in order that mandamus may issue to compel an authority to do something, it must be shown that the statute imposes a legal duty on that authority and the aggrieved party has a legal right under the statute to enforce its performance. Since there is no legal duty on the State Government to appoint all the 15 persons who are in the list and the petitioners have no legal right under the rules to enforce its performance the petition is clearly misconceived."

The above decision makes it clear that the existence of vacancies does not give legal right to a candidate in select list to be appointed to the post. It is open to the Government to decide how many appointments shall be made and the mere fact that the candidate's name appear in the list does not entitle him to be appointed.

16. In *Shankarsan Dash vs. Union of India* (AIR 1991 SC 1612), Constitution Bench of the Supreme Court has held that though a candidate's name finds place in the merit list, it does not confer any right to be selected, and that even if some vacancies remain unfilled after the process of selection is finally closed, it cannot be called as 'discrimination'. The relevant passage is extracted hereunder,

" 7. It is not correct to say that if a number of vacancies are notified for appointment and adequate number of candidates are found fit, the successful candidates acquire an indefeasible right to be appointed which cannot be legitimately denied. Ordinarily the notification merely amounts to an invitation to qualified candidates to apply for recruitment and on their selection they do not acquire any right to the post. Unless the relevant recruitment rules so indicate, the State is under no legal duty to fill up all or any of the vacancies. However, it does not mean that the State has the licence of acting in an arbitrary manner. The decision not to fill up the vacancies has to be taken bona fide for appropriate reasons. And if the vacancies or any of them are filled up, the State is bound to respect the comparative merit of the candidates, as reflected at the recruitment test, and no discrimination can be permitted."

It is clear from the above decision that the candidate could not, as of right, claim that he should have been selected, when his name could not be included before the process of final selection was closed. It is also clear that unless the relevant recruitment rules so indicate, the State is under no legal duty to fill up all or any of the vacancies. Their Lordships have held that the decision not to fill up the vacancies has to be taken bona fide for appropriate reasons.

17. In *Union Territory of Chandigarh v. Dilbagh Singh* ((1993) 1 SCC 154), while considering similar question, the Supreme Court, in para No.12 of the decision, has concluded as follows:-

" If we have regard to the above enunciation that a candidate who finds a place in the select list as a candidate selected for appointment to a civil post, does not acquire an indefeasible right to be appointed in such post in the absence of any specific rule entitling him for such appointment and he could be aggrieved by his non-appointment only when the Administration does so either arbitrarily or for no bona fide reasons, it follows as a necessary concomitant that such candidate even if has a legitimate expectation of being appointed in such posts due to his name finding a place in the select list of candidates, cannot claim to have a right to be heard before such select list is cancelled for bona fide and valid reasons and not arbitrarily."

It is made clear in the above referred decision that the selectees not entitled to an opportunity of hearing before cancelation as even though they have legitimate expectation but they have no indefeasible right to be appointed in the absence of any rule to that effect.

18. In the decision reported in AIR 1992 SC 749 (*P.K.Jaiswal v. Debi Mukherjee*), Their Lordships of the Supreme Court, while dealing with an identical issue, held as follows:-

" 5. If the Government is at a given point of time considering the question of amending the recruitment rules with a view to providing for promotion to the post in question, the Government can before an advertisement is issued by the Commission and the process of selection is under way request the Commission to withdraw the same till it decides on the question of amending the rules. The decision of the Government to withdraw the requisition sent to the Commission in November 1989 before the

issuance of the advertisement does not interfere with any vested right of selection because that stage had yet not reached. In the instant case, that is exactly what happened. Therefore, before the appellant acquired a right to be considered for selection the Government had already intimated that it was examining the question of amending the recruitment rules with a view to providing for appointment by promotion to the post in question. Once this decision was communicated to the Commission before it had set the process of selection in motion by issuing an advertisement, it was not open to the Commission to insist that it will go ahead with the selection process as the extant rule provided for promotion by direct recruitment and the Government could amend the recruitment rules retrospectively, if it so desired, with a view to providing for appointment by promotion. Such an exercise by the Commission would be an exercise in futility, waste of public time and money and hardship to candidates who seek appointment. Whether to provide for promotion as a mode of appointment to the post in question is a matter of policy left to the Government to decide and if it desired that the selection process should be held in abeyance till the question was examined and a final decision was taken thereon, it was not open to the Commission to ignore the communication of the Government in that behalf and proceed to set the selection process in motion."

Thus, it is clear that when the Government seeks to withdraw the Notification issued by the Commission for various reasons, the Commission cannot insist on going ahead with the selection.

19. In *Union of India v. International Trading Co.* ((2003) 5 SCC 437), while considering the terms '**legitimate expectation**' and '**promissory estoppel**', the Supreme Court has held as follows:-

" 23. Reasonableness of restriction is to be determined in an objective manner and from the standpoint of interests of the general public and not from the standpoint of the interests of persons upon whom the restrictions have been imposed or upon abstract consideration. A restriction cannot be said to be unreasonable merely because in a given case, it operates harshly. In determining whether there is any unfairness involved; the nature of the right alleged to have been infringed, the

underlying purpose of the restriction imposed, the extent and urgency of the evil sought to be remedied thereby, the disproportion of the imposition, the prevailing condition at the relevant time, enter into judicial verdict. The reasonableness of the legitimate expectation has to be determined with respect to the circumstances relating to the trade or business in question. Canalisation of a particular business in favour of even a specified individual is reasonable where the interests of the country are concerned or where the business affects the economy of the country. ..."

20. In AIR 1984 SC 1850 (Jatinder Kumar v. State of Punjab), Three Judges Bench of the Hon'ble Supreme Court has held that the Government is free to decide how many appointments will be made even after Notification by the Commission.

21. The above principles make it clear that the State, while filling up the vacancies, has to act bona fide and not arbitrarily. Even if a number of vacancies are notified for appointment and adequate number of candidates are found fit, the successful candidates do not acquire any indefeasible right to be appointed against the existing vacancies. Though Notification amounts to an invitation to qualified candidates, the decisions make it clear that on their selection they do not acquire any right to the post. It is also clear that unless the relevant recruitment rules so indicate, the State is under no legal duty to fill up all or any of the vacancies. However, it cannot be claimed that the State has licence to act in an arbitrary manner. As pointed out by the Constitution Bench of the Supreme Court in the decision reported in AIR 1991 SC 1612 (cited supra), the decision not to fill up the vacancies has to be taken bona fide for appropriate reasons.

22. In these cases, we have already pointed out that though initially the Government requested the TNPSC to take action for filling up 38 vacancies in the post of Motor Vehicles Inspector Grade-II, subsequently, when the Commission asked for clarification, the Government, after taking note of recommendations of the Staff Expenditure Reforms Committee, which was constituted to study the staff pattern with reference to the work load, decided to recruit 20 Motor Vehicles Inspectors Grade-II at the first instance, making it clear that selection to the remaining 18 posts can be considered after thorough scrutiny of the report of the Committee.

23. It cannot be contended that there is no bona fide action on the part of the Government. We have already pointed out that even after selection, unless the Government accepts and approves

the list, the persons, whose names find place, cannot have a vested right. Likewise, the Commission though notified larger number of vacancies to be filled up, it is bound by the direction/instruction of the Government for restriction of the number of posts. The only condition, as clear from the decisions of the Hon'ble Supreme court, is that the action of the Government should be bona fide one and not arbitrary. We are satisfied that the conclusion of the Government for selection only to the extent of 20 posts, based on the recommendation of the Staff Expenditure Reforms Committee, is a bona fide one and the same cannot be characterised as arbitrary. In a matter of employment, it is the Government, who is the authority to decide, particularly the number of persons required for the posts available, taking note of various aspects including work load, need, financial position etc. In such circumstances, we are satisfied that the decision of the Government in confining the selection with only 20 persons to the post of Motor Vehicles Inspector Grade-II is a bona fide one and there is no error in their decision. Thus, we are unable to accept the contention raised by the learned counsel for the petitioners.

24. In these circumstances, we do not find any error or infirmity in the impugned proceedings. Consequently, all the Writ Petitions fail and they are accordingly dismissed. No costs. Connected Miscellaneous Petitions are also dismissed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

JI.

To

1. The Secretary to Government,
Home Transport II,
Fort St. George,
Chennai-600 009.

2. The Transport Commissioner,
Chepauk,
Chennai 600 005.

3. The Secretary,
Tamil Nadu Public Service Commission,
Chennai-600 002.

4. The Secretary to Government,
Home (Transport) Department,
Fort St. George, Chennai-9.

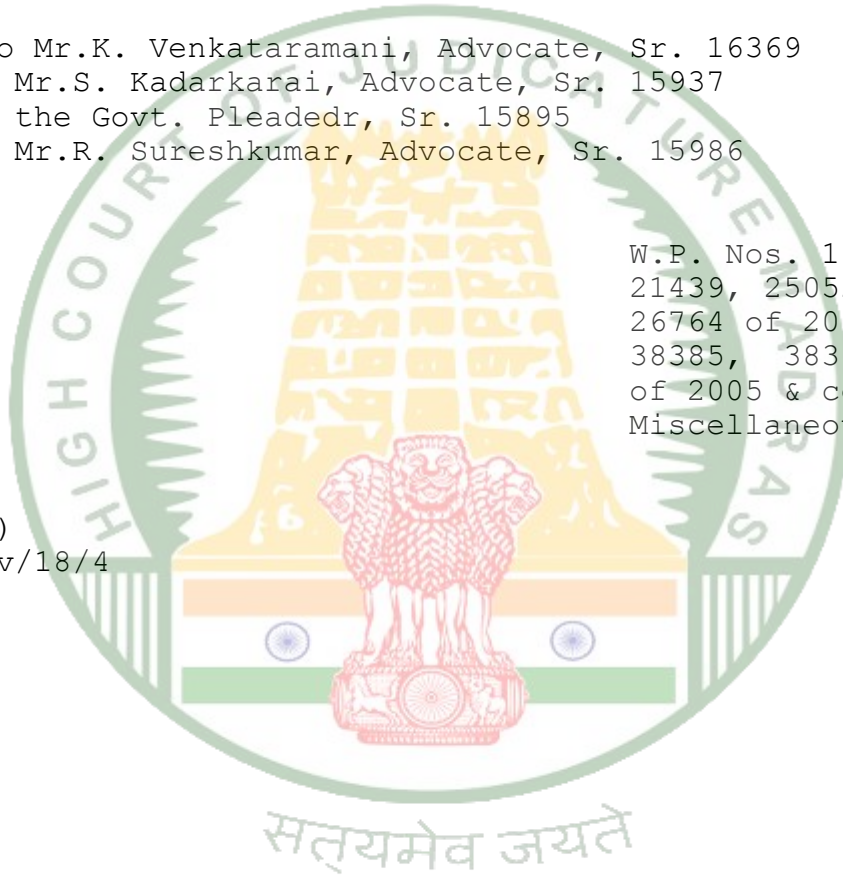
5. The Controller of Examinations
Tamilnadu Public Service Commission,
Chennai-2.

6. The Registrar,
Tamil Nadu Administrative Tribunal,
Chennai- 104

4 ccs to Mr.K. Venkataramani, Advocate, Sr. 16369
1 cc to Mr.S. Kadarkarai, Advocate, Sr. 15937
1 cc to the Govt. Pleader, Sr. 15895
1 cc to Mr.R. Sureshkumar, Advocate, Sr. 15986

W.P. Nos. 16581, 17152,
21439, 25052, 27245 &
26764 of 2004; 6621,
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of 2005 & connected
Miscellaneous Petitions.

JRG (CO)
kk,nm,dv/18/4



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