



புதுச்சேரி மாநில அரசிதழ்

La Gazette de L'État de Poudouchéry

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PART - I

சிறப்பு வெளியீடு

EXTRAORDINAIRE

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வெளியீடு

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GOVERNMENT OF PUDUCHERRY
DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS
(PERSONNEL WING)

No. A.34012/2/2006-DP&AR(Exam.).

Puducherry, the 6th August 2019.

NOTIFICATION

The Examination Cell of the Department of Personnel and Administrative Reforms had conducted the Limited Departmental Examination for promotion to ten posts of Assistant Commercial Tax Officer (ACTO) on 26-11-2006 based on the request, dated 25-04-2006 received from the Commercial Taxes Department, Puducherry and the results were declared *vide* Notification No. A.34012/2/2006-DP&AR (Exam.), dated 04-12-2006.

2. The question paper contained 100 objective type questions each carrying one mark. When it was brought to the notice of the Department of Personnel and Administrative Reforms that questions from 91-100 were set out of the syllabus prescribed in the call letter sent to the candidates on 06-11-2006, a conscious decision was taken to award grace marks for the said ten out of syllabus questions

asked on Central Sales Tax Act, 1956 and 10 marks were awarded to all candidates as grace marks ignoring the actual marks, if any, scored by the candidates out of the said ten questions. The merit list was drawn accordingly and the results were declared.

3. Aggrieved by the evaluation answers with grace marks awarded as above, R. Gunasekaran and two others filed O.A.No. 961/2006 and R. Vassandhan and another filed, O.A.No. 965/2006 before the Hon'ble Central Administrative Tribunal (CAT) seeking the following relief:

(i) "To call for the records of the Department of Personnel and Administrative Reforms, Pondicherry, who passed the order, dated 04-12-2006 relating to the publication of results of the Limited Departmental Competitive Examination for promotion by direct recruitment to the post of Assistant Commercial Taxes Officer which was held on 26-11-2006 in so far as the general category is concerned and set aside the same, consequently,

(ii) Direct the official respondents to select the candidates for promotion by direct recruitment to the abovesaid posts considering the applicants also only on the basis of the marks obtained in the Limited Departmental Examination which was held on 26-11-2006".

4. The Hon'ble CAT disposed of the OAs by a common order, dated 17-04-2009 with the following direction:

"As such we quash and set aside the impugned notification, dated 04-12-2006 and direct the respondents to conduct a fresh examination as per Recruitment Rules and select the candidates on merit. Accordingly, the OAs are disposed of with the above direction".

5. The Government preferred an appeal against the abovesaid orders of the Hon'ble Central Administrative Tribunal (CAT) in W.P.No. 24085/2010 before the Hon'ble High Court of Judicature, Madras. Some other selected candidates also preferred appeals and filed Writ Petitions before the High Court. All the Writ Petitions were dismissed on 04-12-2012 by the High Court by confirming the CAT Orders, dated 17-04-2009.

6. The Government filed Special Leave Petition before the Hon'ble Supreme Court in SLP (C) 13712-13713/2013 which were also dismissed by the Supreme Court on 18-04-2013.

7. Thereafter, the Government filed a Review Application in R.A No.104 of 2017 in W.P.No. 24085/2010 pointing out certain infirmities in the Hon'ble High Court Orders, dated 04-12-2012. The Hon'ble High Court allowed the Review Application on 30-06-2017 with the following direction.

"We confirm the order passed by the Tribunal, setting aside the select list prepared by giving grace marks to all the candidates. We set aside the direction to conduct fresh examination in accordance with the recruitment rules for selection of Assistant Commercial Tax Officer. We grant the consequential relief claimed by the respondents in the Original Applications by directing the Government of Puducherry to redraw and publish the

select list strictly on the basis of the marks obtained by the candidates in the Limited Departmental Examination held on 26th November 2006. Such exercise shall be completed within a period of four weeks from the date of receipt of this order”.

8. The Government again preferred a Modification Petition in W.M.P 8700/18 in R.A No. 104/2017 before the Hon'ble High Court which was disposed of by the Hon'ble High Court with the following direction on 03-07-2019:

“We direct the Chief Secretary to Government of Puducherry to ensure that the order passed by this Court, dated 30-06-2017 in Review Application Nos. 126 to 130 of 2013 and 104 and 105 of 2017 is complied with in its letter and spirit as expeditiously as possible and in any case, on or before 5th August 2019. The Chief Secretary shall file a report of compliance before this Court on 7th August 2019”.

9. The considered views of the Government Pleader and the opinion of the Law Department have been taken. The decision to award grace marks was taken based on the fact that 10 questions were set out of the syllabus prescribed in the recruitment notification. Nobody, including the aggrieved applicants in Original Applications, disputed this fact. However, the grace marks awarded failed to stand judicial scrutiny and consequently the merit list with grace marks stood quashed. In as much as it has been admitted by the Government that ten questions were out of syllabus, the natural corollary would be to restrict the evaluation to the portion covered by the notified syllabus so as to ensure level play for all the contesting candidates.

10. The Hon'ble High Court while disposing W.M.P 8700/18 in R.A No.104/2017 has made the following observation in para 8 of the judgment. Neither the candidates who are the petitioners in W.M.P No. 34922 of 2017 nor the Union territory of Puducherry, petitioner in W.M.P No. 8700 and 8701 of 2018 are in any way affected by the order passed by this Court. We do not understand as to why the Union territory of Puducherry has filed the Modification Petitions, in spite of making the position clear by this Court earlier that it is open to the Government to redraw and publish the select list strictly on the basis of the marks obtained by the candidates in the Limited Departmental Competitive Examination held on 26th November 2006.

11. In view of the aforesaid background and particularly the orders, dated 30-06-2017 in Review Application No. 104 of 2017 as well as the orders, dated 03-07-2019 in W.M.P No. 8700/18 in R.A No.104/2017 of the High Court, the grace marks given are excluded and the evaluation has been done with reference to all the questions except the questions 91-100 which were found to be related to Central Sales Tax Act, 1956 which was not part of the syllabus as decided earlier by the Department. The net effect of the exercise is that the list of selected candidates is enclosed and is essentially the same as it was notified earlier on 04-12-2006.

(By order of the Chief Secretary)

V. JAISANKAR,

Under Secretary to Government (DP&AR).

ANNEXURE

Sl. No.	Name and address of the officials (as on 26-11-2006)	Category
(1)	(2)	(3)
Thiru/Tmt./Selvi.:		
1	Sekar. P, Upper Division Clerk, Division-IV, Electricity Department, Puducherry.	. . General
2	Sadhees Kumar. R, Upper Division Clerk, Legislative Assembly Secretariat, Puducherry.	. . General
3	Aroumougam. B, Upper Division Clerk, Chief Secretariat (Administrative Reforms Wing), Puducherry.	. . General
4	Govindharaj. G, Upper Division Clerk, Office of the Medical Superintendent, Indira Gandhi Government General Hospital and Postgraduate Institute, Puducherry.	. . General
5	Ramakichenan. R, Upper Division Clerk, Office of the Engineer Assistant, Central Office, Public Works Department, Puducherry.	. . General
6	Punithavally. V, Upper Division Clerk, Department of Animal Husbandry and Animal Welfare, Puducherry.	. . General
7	Kamalaveny. S, Upper Division Clerk, Office of the Deputy Collector (Revenue North), Puducherry.	. . General
8	Balamourthy. B, Upper Division Clerk, Building and Roads (Central) Division, Public Works Department, Puducherry.	. . General
9	Sivagnaname. G, Upper Division Clerk, Office of the Deputy Labour Commissioner, Labour Department, Puducherry.	. . SC
10	Balamourougan. T, Upper Division Clerk, Indira Gandhi Government General Hospital and Postgraduate Institute, Puducherry.	. . SC

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