

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13..08..2015

Reserved on : 31.07.2015

CORAM:

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

W.P.Nos.23527 and 23528 of 2015
& M.P.Nos.1 and 1 of 2015

P.Kandasamy ... Petitioner in W.P.No.23527/2015
R.Nambiraj ... Petitioner in W.P.No.23528/2015

Vs.

1. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Anna Salai, Chennai - 600 002.
2. The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Anna Salai, Chennai - 600 002.

... Respondents in
both the petitions

* * *

Prayer : Writ Petition filed under Article 226 of the Constitution of India for the issuance of writ of Mandamus directing the respondents to follow 5% reservation for Ex-Servicemen in the appointment to the post of Sub Inspector of Police (Taluk) 2015, recruitment as per Notification No.1 of 2015 of the respondent dated 08.02.2015 and consider the claim of the petitioner for selection and direct appointment to the said post under Ex-Servicemen category and appoint him directly to the said post.

* * *

For Petitioner in : Mr.Koviramalingam
both the W.Ps.

For Respondents : Mr.P.H.Aravind Pandian,
Additional Advocate General
assisted by Mr.V.Jayaprakash Narayanan,
Special Government Pleader

C O M M O N O R D E R

The petitioners in both these writ petitions are Ex-Servicemen. Pursuant to the notification, dated 08.02.2015, they made applications for the post of Sub Inspector of Police. They appeared for the written examination. The petitioner in W.P.No.23527 of 2015 secured 25 marks and the petitioner in W.P.No.23528 of 2015 secured 32.5 marks in the written examination. They were not allowed to participate in Physical Endurance Test on the ground that they did not secure the cut-off marks.

2. According to the petitioners, the post of Sub Inspector of Police belongs to Group 'C' posts. Since they are Ex-Servicemen, they are entitled to claim Ex-Servicemen quota of 5 % in Group 'C' posts as per G.O.Ms.No.18, Personnel and Administrative Reforms Department, dated 22.01.2007. If 5% reservation is granted to Ex-Servicemen in the post of Sub Inspect of Police, they would come well within the zone of consideration to participate in the Physical Endurance Test.

3. The learned Additional Advocate General submitted that the post of Sub Inspector of Police belongs to Group 'B' post and there is no reservation in Group B posts for Ex-Servicemen.

4. The issue now arises for consideration is as to whether the post of Sub Inspector of Police belongs to Group 'C' or Group 'B' post and if it is a Group 'B' post, whether the writ petitioners are entitled to claim 5 % reservation for Ex-Servicemen quota ?

5. At the outset, it is useful to refer to Rule 2A of the Tamil Nadu State and Subordinate Service Rules which classifies four groups in the Government Service. Those four groups are as follow :

"Rule : 2-A. Classification - Persons holding posts under the Tamil Nadu State and Subordinate Services shall be classified into the following four groups, namely :-

Group A - Employees in posts drawing Grade Pay of Rs.6,600/- and above.

Group B - Employees in posts drawing Grade Pay of Rs.4,400/- and above but below Rs.6,600/-.

Group C - Employees in posts drawing Grade Pay of Rs.1,400/- and above but below Rs.4,400/-.

Group D - Employees in posts drawing Grade Pay of Rs.1,300/-"

6. As per the notification, the Grade Pay of the Sub Inspector of Police is Rs.4800/-. Hence, it is clear that the post of Sub Inspector of Police belongs to Group 'B' posts.

7. The 5% reservation to Ex-servicemen is given in the direct recruitment to Group 'C' posts as per Rule 22(ab) of the Tamil Nadu State and Subordinate Service Rules. It is useful to extract Rule 22(ab) as hereunder :

"22. Reservation of Appointments - Where the Special Rules lay down that the Principle of reservation of appointments shall apply to any service, class or category, selection for appointment thereto shall with effect on and from the 22nd June 1990, be made on the following basis:

(ab) Out of the total number of appointments reserved in the categories referred to in clause (a), in the case of appointment made by direct recruitment to Group 'C' posts, five percent in each such category shall be reserved for Ex-servicemen and subject to availability of such candidates, the appointment shall be made in turn and in the order of rotation as specified in SCHEDULE III-B to this Part :"

Thus, statutory rules do not provide for reservation to Ex-servicemen in Group 'B' posts.

8. Furthermore, in similar circumstances, while upholding the common order of a learned Single Judge dated 22.01.2011 in W.P.Nos.18791 and 18792 of 2010, a Division Bench of this Court in the judgment dated 22.11.2012 in W.A.Nos.533 and 534 of 2011 held that there is no 5% reservation for Ex-Servicemen for recruitment to the post of Sub Inspector of Police, as the same belongs to Group 'B' post. It is relevant to extract paragraph 11 of the judgment of the Division Bench dated 22.11.2012 in this regard :

"11. It is not in dispute that originally, the post of Sub Inspector of Police was classified as Group "B" post. The pay scale of Sub Inspector of Police was revised on the basis of the report submitted by one man Commission. Since the scale of pay was substantially revised, the post was re-classified as Group "B". The reservation in question was give only for the posts in Group "C". There was no reference that reservation was given to Sub Inspector of Police. Even though the Government have revised the pay structure, no further action was taken to reserve 5% of the posts for Ex-Servicemen as in the case of Group "C" posts. It is only when the Government Orders in force provide for reservation in Group "B" posts, a right would accrue to the Ex-Servicemen like the appellants to claim appointment against such reserved posts. So long as the post of Sub Inspector of Police remain a Group "B" post and there is no corresponding order issued

by the Government reserving vacancy for Ex-servicemen in Group "B" category, it cannot be said that the Tamil Nadu Uniformed Services Recruitment Board should extend the benefits of reservation to the appellants. The first respondent is only an agency of the Government. It is for the Government to take a decision to reserve appropriate number of posts for Ex-servicemen even in Group "B" posts. It is essentially a policy to be adopted by the Government. The Courts cannot direct the Government to adopt a particular policy."

9. In view of the Division Bench judgment, Rule 2A and Rule 22(ab) of the Tamil Nadu State and Subordinate Service Rules, referred to above, the writ petitions are not maintainable and the same are liable to be dismissed.

10. In the result, the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

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To

1. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Anna Salai, Chennai - 600 002.

2. The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Anna Salai, Chennai - 600 002.

+2 cc to Kovi Ramalingam Advocate sr.42489

+1 cc to Government Pleader sr.42872

W.P.Nos.23527 and 23528 of 2015

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