

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2015

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
The Hon'ble MR.JUSTICE T.S.SIVAGNANAM

W.P. Nos.27923 to 27925 of 2015

K.Syed Sulthan Ibrahim .. Petitioner in WP.27923/15
A.Abdul Shamir .. Petitioner in WP.27924/15
S.Faiyaz .. Petitioner in WP.27925/15

-vs-

- 1 The Chairman
Tamilnadu Uniformed Services Recruitment
Board P.T.Lee Chengalvaraya Naciker
Building No.807 2nd Floor Anna Salai
Chennai.
2. The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai. .. Respondents in all the WPs.

Petitions filed under Article 226 of the Constitution of India praying for issue of Writ of Declaration to declare the cut off marks fixed for the Viva-voce as 45.50 for BC-Muslim General in Sub-Inspector selection 2015 as null and void and further direct the 1st respondent to recruit the petitioners with 45.50 and 45 marks for the post of Sub-Inspector Police under the BC-Muslim General category(in wps.27923 &27924/15 and 45 marks for the post of Sub-Inspector Police under the Tamil Medium Quota (PSTM) (inwp.27925/15) respectively.

For Petitioner : Mr.R.Dhinesh Kumar
For Respondents : Mr.V.R.Kamalanathan, A.G.P.

O R D E R

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioners applied for the recruitment to the post of Sub Inspector of Police in pursuance to the notification dated 08.02.2015 under the B.C. Muslim General category. The petitioners were below

the cut-off level and thus, could not proceed to the Physical Endurance Test stage nor did they approach the Court with any grievance. It is only after the Physical Endurance Test stage was over that the petitioners have approached this Court with the grievance that the cut-off marks post the Physical Endurance Test is less than the cut-off marks post just the first stage of written examination.

2. At first blush, it seemed to us to be strange as to how cut-off would come down, since the candidates would obtain some marks at the Physical Endurance Test and that is the reason we asked the respondents to file an affidavit.

3. The counter-affidavit filed by the first respondent shows that though all the petitioners before us are from one category, the phenomena of a drop in cut-off percentage is not confined to this category, but to a number of other categories. The basic reason is stated to be that as against 1078 posts, 1,85,000 persons have applied. For purposes of moving to the next stage of Physical Endurance Test, a ratio of 1 : 5 was applied, i.e. about 5,500 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, i.e. 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 to 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.

4. A detailed explanation of this is given in the following terms:

9. It is submitted that there are multiple stages in the recruitment process and cut off marks are published in the website after each stage to ensure transparency and fairness in the selection process.

a. The first cut off marks is published after written test at the ratio of 1:5 and the candidates who qualify the written exam are allowed to participate in the Physical Measurement /Endurance Test / Physical Efficiency Test.

b. The second cut off marks is published after the conduct of Physical Efficiency Tests at the ratio of 1:2 (i.e) 2 times the vacancies and the eligible candidates are allowed to participate in Viva-voce.

c. The final provisional select list is published after Viva-Voce.

10. It is submitted that the first cut off mark published in the ratio of 1:5 is generally quite 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 this stage.

b. Overall, only 5000 candidates compete at this stage as against 1.5 lakh candidates at the written examination stage.

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

d. 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.

Overall, the vacancies are divided into 56 segments which involves special quota and community reservation within each special quota and general quota and reservation for women within each segment.

13. It is submitted that Sports and Wards Quota are parts of the open quota. These are not separate quotas and examination is the same. These are called special quotas.

Open Quota (80%)		Departmental Quota (20%)
General Quota (60%)	Sports Quota (10%)	
	Wards Quota (10%)	

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.

14.It is also 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:-

	General Quota (60%)	Police Ward (9%)	Ministerial Ward (1%)	Sports (10%)
GT -General	1.	15.	29.	43.
GT-Women	2.	16.	30.	44.
BC -General	3.	17.	31.	45.
BC -Women	4.	18.	32.	46.
BCM- General	5.	19.	33.	47.
BCM- Women	6.	20.	34.	48.
MBC- General	7.	21.	35.	49.
MBC -Women	8.	22.	36.	50.
SC -General	9.	23.	37.	51.
SC -Women	10.	24.	38.	52.
SCA- General	11.	25.	39.	53.
SCA-Women	12.	26.	40.	54.
ST-General	13.	27.	41.	55.
ST- Women	14.	28.	42.	56.

15.It is submitted that the general turn GT-General 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 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.

16.It is submitted that around 5000 candidates only took part in

the second stage (PMT/ET/PET) of which around 2000 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.

17.It is submitted that when 1:2 slots are filled as per the sequence explained in Para No.15, most of the candidates under special quotas and community reservation get adjusted against the slots of GT-General or Community General segment on account of 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.

18.It is submitted that the cut off marks for PET 1:5 ratio and Viva-Voce 1:2 ratio is produced here under

	OPEN		SPORTS		POLICE WARDS		MINISTERIAL WARDS	
	1:5	1:2	1:5	1:2	1:5	1:2	1:5	1:2
GT (General)	52.50	65.50	40.50	53.00	46.50	53.00	45.50	46.00
GT (Women)	46.00	48.00	33.00	---	30.50	----	25.50	---
BC (General)	49.50	58.50	34.50	44.50	44.00	46.50	37.00	46.00
BC (Women)	42.00	34.00	28.00	---	25.00	----	---	---
BCM (General)	46.00	45.50	27.50	42.00	40.00	----	---	---
BCM (Women)	34.50	44.50	---	---	26.00	----	---	---
MBC (General)	49.50	58.50	34.00	48.50	44.00	51.50	41.00	---
MBC (Women)	42.00	35.00	26.00	---	24.50	---	---	---
SC (General)	48.50	57.00	32.50	46.00	42.50	51.50	34.00	---
SC (Women)	41.00	32.00	25.50	----	24.50	---	---	---
SCA (General)	46.00	34.50	26.00	----	34.50	---	---	---

SCA (Women)	38.00	---	24.50	----	29.50	---	---	---
ST (General)	44.00	54.00	31.00	37.00	----	---	---	---
ST (Women)	33.00	46.50	----	----	----	---	---	---

5. In the aforesaid circumstances, as to what has happened in the case of the petitioner is set out in para 19, which reads as under:

'19. It is submitted that in the instant case the petitioner belongs to BC (Muslim) and the cut off mark for the second stage (PET- 1:5 ratio) is 46 marks. After participating in PET a candidate could secure a minimum of 6 to a maximum of 15 marks. Hence if a candidate of BC (Muslim) with 46.5 marks in written test secures 12 marks in PET he will migrate to BC General Slot with the cut off mark of 58.50 in 1:2 ratio. Similarly the candidate from BC(M) Police Wards with cut-off 40.00 marks in 1:5 ratio gets migrated to BC(M) General after getting a minimum of 6 marks in PET. The migration of reserved candidates to unreserved vacancies is explained below

	OC-General		
	52.50	65.50	
	OC-Women		
	46.00	48.00	
	BC-General		
	48.50	58.50	
	BC-Women		
	42.00	34.00	
BC (M) -General Police Ward	BC (M) -General		BC (M) -General Sports
40.00	-	46.00	46.50
27.50			42.00
BC (M) -Women Police Ward	BC (M) -Women		BC (M) -Women
40.00	-	34.50	44.50
26.00			-

6. The counter-affidavit also sets out the judicial pronouncements broadly on the principle that in categories of women

and handicapped, etc., persons in reserved category have two options, i.e., if they are meritorious enough to compete with the open category, they are recruited in that category and the candidates below them would be considered for appointment in the reserved category. This is what has resulted in shifting from one category to the other.

7.We may notice the judgment of the Hon'ble Supreme Court in Civil Appeal No.1099 of 2013 (between Rajya Sabha Secretariat vs. Subhash Baloda & Ors.) for the proposition that as long as such processes are applied uniformly, it cannot be said that because one method could be better than the other, the Court could substitute the method existing for what it deems as more desirable method.

8.The explanation having been offered for the position of the petitioners, no case is made out for interference under Article 226 of the Constitution of India.

9.Writ Petitions, accordingly, stand dismissed. No costs.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

sra

To

1 The Chairman
Tamilnadu Uniformed Services Recruitment
Board P.T.Lee Chengalvaraya Naciker
Building No.807 2nd Floor Anna Salai Chennai.

2. The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai.

+3 cc to Mr.r.DhineshKumar, Advocate Sr.50454,50455,50456
+1cc to Government pleader Sr.50237

W.P.Nos.27923 to 27925 of 2015

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srg 1.10.2015