

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2015

CORAM:

THE HONOURABLE MR. JUSTICE V.RAMASUBRAMANIAN

and

THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

W.A.No.2278 of 2012

and

M.P.No.1 of 2012

- 1.The Secretary to Government
Home (Police) Department
Fort St. George
Chennai - 600 009
 - 2.The Director General of Police/Chairman
Tamil Nadu Uniformed Service Recruitment Board
Anna Salai, Chennai-2
 - 3.The Director General of Police
Dr. Radhakrishnan Salai
Mylapore, Chennai - 600 004 ... Appellants/ Respondents
- Vs.
- R.Venkatesan ... Respondent/ Petitioner

Writ Appeal filed under Clause 15 of the Letters Patent against the order of the learned single Judge dated 18.12.2009 made in W.P.No.26256 of 2009. सत्यमेव जयते

W.P.No.26256 of 2009:- This Petition prayed to issue a writ of mandamus directing the 2nd respondent to add one marks to the petitioner for recruitment of Sub-Inspector of Police (Men-department quota) 2006 and further direct the respondents to select and appoint the petitioner as Sub-Inspector of Police under 20% open candidates quota and fix the appropriate place in the Selection and grant all consequential service and monetary benefits and grant such other further relief as this Honourable Court may deem fit in the circumstances arising out of the case.

For Appellants : Mrs.A.Srijayanthi,
Spl. Government Pleader

For Respondent : No Appearance

J U D G M E N T

(Order of the court was made by P.R.SHIVAKUMAR, J.)

This writ appeal has arisen out of an order of the learned single judge of this court dated 18.12.2009 made in W.P.No.26256 of 2009, wherein the respondent had sought for the issue of a writ of mandamus directing the second appellant herein to add one more mark to the respondent in the written examination conducted for the recruitment of Sub Inspector of Police (Men - Department Quota) 2006 and for a further direction directing the appellants herein to select and appoint him as Sub Inspector of Police under 20% quota for Departmental candidates. He had also prayed for placing him in an appropriate place in the selected list and grant all consequential service and monetary benefits.

2. The learned single Judge holding that the issue raised in the writ petition was covered by a judgment in another writ petition, allowed the writ petition and issued the following directions:

"(i) The respondents are directed to prepare a list of all the unselected candidates who have answered question No.11 with option No.(D), question No.38 with all the answers and question No.44 with option No.(A) and grant marks accordingly.

(ii) The respondents are directed to take the cut-off marks fixed for the selection made in the written examination as the basis for respective categories for the consideration of the non-selected candidates who would get higher marks in pursuant to the directions given by this Hon'ble Court.

(iii) The respondents are directed to conduct Viva-Voce Test for those candidates who come within the cut-off marks in pursuant to the granting of higher marks in the written examination.

(iv) The respondents are directed to take into consideration of the marks obtained in the interview for those unsuccessful candidates who have already attended the interview and who would be getting additional marks.

(v) The respondents are directed to consider the candidates who would become eligible to be selected in view of the directions of this Hon'ble Court by adding the marks due to them in the available vacancies, in the respective categories, as on the last date of the interview conducted.

(vi) For the future examinations, the second respondent is directed to verify the key answers immediately after the written examination is over and publish the same in the website of the second respondent as well as in anyone of newspapers.

(vii) The second respondent is also directed to publish the marks obtained by the candidates in the written examination after the evaluation of the written examination in the web site of the second respondent.

The respondents are directed to complete the process of selection in accordance with the directions given above and publish the results within a period of three months from the date of receipt of a copy of this order."

3. Challenging the said order, the present writ appeal has been filed by the appellants herein, who figured as respondents 1 to 3 in the writ petition.

4. Though notice was served on the respondent, he has not chosen to enter appearance either through counsel or in person. Hence, we have heard the arguments advanced by Mrs.A.Sri Jayanthi, learned Special Government Pleader representing the appellants. The impugned order and the materials produced in the form of typed set of papers are also perused.

5. The writ petitioner holding a Post Graduate degree and a Diploma in Police Administration was initially appointed on 16.04.1997 as Grade II Police Constable and thereafter he was promoted as Grade I Police Constable in the year 2007. While so, the second appellant invited applications from eligible candidates for selection and appointment to the post of Sub Inspector (Men) in the Tamil Nadu Police Subordinate Services for the year 2006-2007. The respondent, who is a service candidate, applied through proper channel competing for selection under 20% service quota. He appeared for physical measurement, endurance and efficiency tests and was also permitted to write the written examination. Contending that though he faired well in the physical measurement test, endurance test and physical efficiency test and also scored high in the written examination, he was not selected due to the award of less marks in the Viva-Voce and that it was a deliberate act on the part of the selecting authorities to eliminate the respondent so that the persons of their choice would be given appointment, he filed an earlier writ petition in W.P.No.28775/2007 on the file of this court. A learned single judge of this court, while disposing of a batch of writ petitions, dismissed the said writ petition filed by the respondent herein by a common order dated 20.11.2007.

6. After failing in the first attempt to challenge his non-selection, the respondent once again knocked at the doors of this court with W.P.No.26256/2009. This time he challenged the marks awarded in the written test based on the ground that some of the questions were vague and ambiguous and key answers were also incorrect; that he supplied the correct answers and that had he been awarded marks for those correct answers, he would have been selected. A learned single judge of this court, relying on the orders passed in similar writ petitions (without mentioning the writ petition numbers), disposed of the writ petition issuing the directions indicated supra. Aggrieved by and challenging the same, the appellants have come forward with the present writ appeal.

7. Admittedly, the order made in the similar writ petitions, referred to in the impugned order of the learned single judge, was challenged in a batch of writ appeals and a Division Bench of this court, by judgment dated 23.12.2010, allowed the said writ appeals and set aside the directions issued in those writ petitions, which were similar to the directions issued in the writ petition concerned in the present writ appeal.

8. The said judgment of the Division Bench dated 23.12.2010 made in W.A.Nos.1719 to 1739 and 1602 to 1636 and 1933 to 1956 of 2010 (batch) was challenged before the Hon'ble Supreme Court in S.L.P.(C) Nos.36358 to 36391/2011 and the Supreme Court by its order dated 19.01.2015, confirmed the judgment of the Division Bench and dismissed the Special Leave Petitions preferred against the said judgment. It is pertinent to note that those writ appeals were filed against the orders passed in a batch of writ petitions challenging the very same selection forming the subject matter of challenge in the writ petition from which the present writ appeal has arisen.

9. In view of the fact that the very order relied on by the learned single judge was set aside by the Division Bench and the said judgment of the Division Bench of this court has been confirmed by the Supreme Court, we are of the considered view that the writ appeal is bound to be allowed and the directions issued in the order of the learned single judge dated 18.12.2009, which is impugned in this writ appeal, are liable to be set aside.

In the result, the writ appeal is allowed. The order of the learned single judge dated 18.12.2009 made in W.P.No.26256/2009 is set aside and the writ petition shall stand dismissed. However, there shall be no order as to cost. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

asr

To

- 1.The Secretary to Government
Home (Police) Department
Fort St. George
Chennai - 600 009
- 2.The Director General of Police/Chairman
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Dr. Radhakrishnan Salai
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1 cc to the Government Pleader, Sr. 6125

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