

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2015

CORAM :

THE HONOURABLE MR. JUSTICE T. RAJA

W.P.NO. 17530 OF 2007
(O.A.NO.218 of 2004)

N.Muthukumar

... Petitioner

vs.

1. The State of Tamilnadu
represented by
The Director General of Police
Tamilnadu
 2. The Additional Director General
of Police (Administration)
Chennai, Tamilnadu
 3. The Tamilnadu Uniformed Services
Recruitment Board
represented by its Chairman
Annasalai, Chennai - 600 002.
 4. The Commandant
Tamilnadu Special Police VII Battalion
Kovaipudur 42,
Kovai District.
 5. The Principal
Temporary Police Recruit School
Tamilnadu Special Police
VII Batalion
Palani
- .. Respondents

PRAYER: This Writ petition came to be numbered under Article 226 of the Constitution of India by way of transfer of O.A.No.218 of 2004 from the file of the Tamil Nadu Administrative Tribunal praying for issuance of Certiorarified Mandamus, to call for the records of the fourth respondent's order in Na.Ka.No.A3/16800/2003-2 VII Battalion in charge of Tamil Nadu Special Police IV Battalion, Kovaipudur dated 13.12.2003 and quash the same as illegal and direct the respondents

to allow the petitioner to continue the training programme by condoning the break from 14th December.

For Petitioner : Ms.A.Arulmozhi

For Respondents : Mr.N.Srinivasan
Additional Government Pleader

O R D E R

The petitioner filed O.A. No. 218 of 2004 before learned Tamilnadu Administrative Tribunal challenging the impugned order dated 13.12.2003, in and by which the Commandant, Tamilnadu Special Police VII Battalion also in-charge of Tamilnadu Special Police IV Battalion, Kovaipudur, under instructions from the Additional Director General of Police (Administration), cancelled his appointment to the post of Grade II Police Constable, stating that as per the Fax Na.Ka. No. 080992/Appointment 3/03 of the Additional Director General of Police (Administration), he was wrongly selected under Scheduled Tribe category when he originally belongs to Backward Class community. Therefore, having wrongly selected the petitioner under Scheduled Tribe category instead of Backward Class category, the order of cancellation of his appointment was issued. Challenging the same, the petitioner went before the Tamilnadu Administrative Tribunal and after abolition of the Tribunal, the matter came to be transferred to this Court as W.P. No.17530 of 2007.

2. Learned counsel appearing for the petitioner would submit that when the petitioner in his application has specifically mentioned that he belongs to Backward Class community, there cannot be any possibility of confusing the category of petitioner's community with Scheduled Tribe category at the time of his selection to the post of Police Constable. But when the petitioner, at no point of time claimed benefit under the Scheduled Tribe category, the impugned order ought not to have been passed and therefore the same is liable to be set aside. That apart, the petitioner on being selected to join the training programme and on the 3rd day sent out, is totally in violation of Article 311 of the Constitution of India. As the principles of natural justice has been completely violated, the impugned order should be set aside and he should be permitted to continue as Police Constable, he pleaded.

3. A detailed counter affidavit has been filed. Learned Additional Government Pleader appearing for the respondents urged this Court to dismiss the writ petition on two grounds:

Firstly, the petitioner was wrongly shown as selected under Scheduled Tribe category when admittedly, even as per his own

affidavit he belongs to Backward Class category. After verification of the petitioner's community and finding that he belongs to Hindu Chanan caste, due to inadvertence, his name was somehow included in the Scheduled Tribe category.

That apart, even in the Backward Class category he cannot be considered since the cut-off marks fixed by the department for Backward Class category is 64, whereas, the petitioner has secured only 63 marks.

In support of his submission, learned Additional Government Pleader has produced the selection list showing that the petitioner has been wrongly selected under Scheduled Tribe category and that 64 marks was taken as the cut off marks for Backward Class category. I fully agree with these submissions.

4. When the petitioner had failed to secure the minimum cut-off marks of 64 for Backward Class community, this Court is unable to consider the case of the petitioner.

5. Therefore, the Writ Petition fails and the same is dismissed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

avr

To

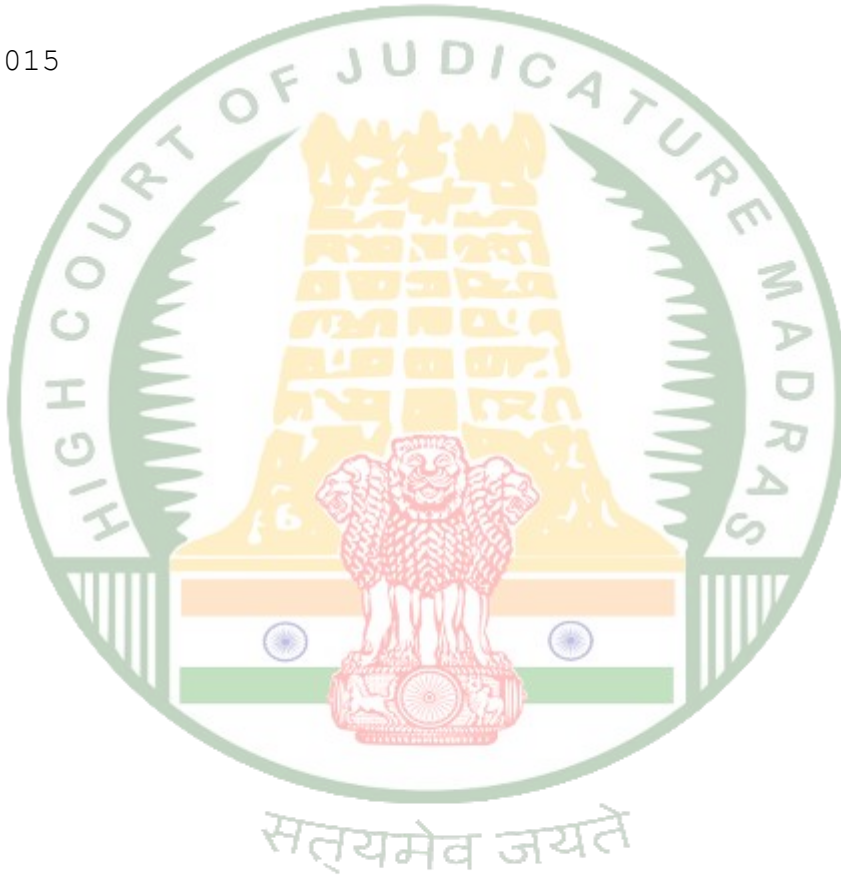
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1 cc to Ms.A.Arulmozhi ,Advocate, SR.No.2160
1 cc to Government Pleader,Sr.No1617

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