



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.10.2015

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P. (MD) Nos.18029 and 18030 of 2015
and
M.P. (MD) .Nos.1,1,2 and 2 of 2015

1.M.Duraimurugan ...Petitioner in W.P. (MD) .No.18029/2015
2.K.Kannan ...Petitioner in W.P. (MD) .No.18030/2015

Vs.

- 1.Tamil Nadu Uniformed Services
Recruitment Board,
Represented by the Member Secretary,
No.807, P.T.Lee.Chengalvaraya Naicker Maaligai,
Annasalai,
Chennai-600 002.
- 2.The Director General of Police,
Beach Road,
Chennai-600 004.
- 3.The Chairman
Recruitment Sub-Committee,
Madurai Centre,
Tamil Nadu Uniformed Services Recruitment Board,
Egmore,
Chennai-600 008. .. Respondents in both W.Ps

COMMON PRAYER: Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration, declaring the final-key answer to the question Nos.63 and 138 of the Question Paper (Type-A) (Type-B) for the Written Examination for recruitment to the post of Sub-Inspector of Police-2015 published by the respondent No.3 as wrong and erroneous and consequently, to direct the respondents to select the petitioner as the Sub-Inspector of Police by awarding ½ mark to the petitioner and by inviting the petitioner for the Viva-voce within the time stipulated by this Court.

For Petitioner in
both W.Ps ... Mr.T.Lajapathiroy

For Respondents in
both W.Ps ... Mrs.S.Bharathy
Government Advocate



COMMON ORDER

These Writ Petitions have been filed by the petitioners seeking writ of Declaration declaring the final-key answer to the question Nos.63 and 138 of the Question Paper (Type-A) (Type-B) for the Written Examination for recruitment to the post of Sub-Inspector of Police-2015 published by the respondent No.3 as wrong and erroneous and consequently, to direct the respondents to select the petitioners as the Sub-Inspector of Police by awarding ½ mark to the petitioners and by inviting the petitioners for the Viva-voce within the time stipulated by this Court.

2.Heard the learned counsel appearing for the petitioners and the learned Government Advocate, who takes notice for the respondents.

3.The learned counsel for the petitioners submitted that the petitioners were recruited as the Police Constable Grade-II on 01.03.2002 and they were promoted to the post of Grade-I police constable. While serving as Grade-I police constable for Organized Crime Intelligence Unit, Madurai, pursuant to the notification dated 08.02.2015, they applied to the post of Sub-Inspector of Police under BC (General) category under Departmental quota and they were issued with the hall ticket bearing enrollment Nos.7400781 and 7400882. On receipt of the hall-ticket, they attended the written examination conducted on 24.05.2015 at Madurai and they have secured 63 marks out of 85 marks. They have secured marks above cut-off marks. The cut-off marks for the BC (General) category under Departmental quota was only 60.5 marks. Therefore, the petitioners were allowed to take part in the Physical Endurance Test(PET). After participating in the Physical Endurance Test, the petitioners were not permitted to take part in the Viva-voce, since they failed to secure further cut-off marks 63.5.

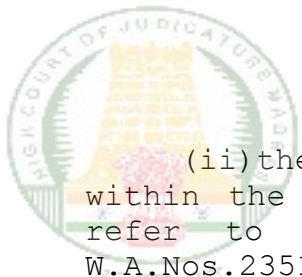
4.Therefore, the grievance of the petitioners is that when the petitioners have answered the question No.63(Type-A) and 18(Type-B), they have correctly answered the question Nos.63 and 138, which is given as under;

"63.What is the time allowed for filing Appeal against acquittal?"
As per the Limitation Act, the correct answer is (D) viz., three months. Whereas the respondent has proceeded with the correct answer is only "A", ie., they answered two months for filing appeal against acquittal.

5.At this point of time, the learned Government Advocate appearing for the respondents submitted that the petitioners should not have been awarded ½ mark more. If the respondents have awarded ½ mark, then the petitioners can come under the BC General Category Departmental Quota and therefore, direction should not be given to award ½ mark for no reason.

6.Further, the learned Government Advocate appearing for the respondents submitted that the present writ petitions are not maintainable for the following reasons;

(I) the petitioners have not given the correct answer as per Section 378 Cr.P.C that the time for filing appeal against acquittal is only two months. Therefore, it is not proper on the part of the petitioners to show that three months time has been given under the Limitation Act to file the appeal against the order of acquittal.



(ii) the petitioners have not even given any representation so far within the specific time limit. In this connection it is necessary to refer to the decision of the Hon'ble Division Bench passed in W.A.Nos.23511 to 23515 of 2015 dated 16.09.2015, wherein it has been made clear that if the petitioner comes to this Court without making any averment that he made a representation within a period of one week, such writ petition should not be entertained under Article 226 of the Constitution of India.

7. First of all, Section 378 Cr.P.C clearly makes the time as two months for filing appeal against acquittal. Therefore, on this score, the writ petitions are liable to be dismissed. Secondly, the petitioners have not made any representation as per the procedure which has been also considered by the Hon'ble Division Bench. For the reasons given in the decision, this Court finds no merit in these writ petitions. Accordingly, the writ petitions are dismissed. No costs. Consequently the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Crl.side)

/True copy/

Sub Assistant Registrar

To

1. The Member Secretary,
Tamil Nadu Uniformed Services
Recruitment Board,
No.807, P.T.Lee.Chengalvaraya Naicker Maaligai,
Annasalai,
Chennai-600 002.
2. The Director General of Police,
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3. The Chairman
Recruitment Sub-Committee,
Madurai Centre,
Tamil Nadu Uniformed Services Recruitment Board,
Egmore,
Chennai-600 008.

+1cc to special Government Pleader SR.No.55764

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