

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Appeal No.1418 of 2015 against
WP 23527 of 2015
and M.P.No.1 of 2015

P.Kandasamy ..Appellant/Petitioner

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/Respondents

Writ Appeal filed under Clause 15 of Letters Patent against
the order dated 13.08.2015 made in W.P.No.23527 of 2015.

WP No.23527 of 2015: This 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 dt 8.2.2015 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 appellant : Mr.R.Singaravelan, Senior counsel
for Mr.S.Ambigapathi

For respondents: Mr.S.T.S.Murthi, Addl.Advocate General
Assisted by Mrs.A.Srijayanthi,
Special Government Pleader.

JUDGMENT

(Judgment of the Court was delivered by HULUVADI G. RAMESH, J.)

Heard Mr.R.Singaravelan, learned Senior counsel appearing for the appellant and Mr.S.T.S.Murthi, learned Additional Advocate General assisted by Mrs.A.Srijayanthi, learned Special Government Pleader appearing for the respondents.

2. The case of the appellant is that he should have been considered for participation in Physical Endurance Test for selection to the post of Sub Inspector of Police.

3. The argument of the learned counsel for the appellant is that as per G.O.Ms.No.111, Personnel and Administrative Reforms (S) Department, dated 09.08.2010, Rule 2-A-Classification states that Group B - Employees in posts drawing Grade Pay of Rs.4,400/- and above but below Rs.6,600/-, however, the post of Sub Inspector of Police belongs to Group 'C' posts and the petitioner was Ex-servicemen and therefore, he is entitled to claim Ex-Servicemen quota of 5% in Group 'C' posts.

4. Learned Additional Advocate General submitted that as per amendment carried out to the Notification issued by the State Government by way of G.O.Ms.No.111, Personnel and Administrative Reforms (S) Department, dated 09.08.2010, the Grade Pay of the Sub Inspector of Police is Rs.4800/- and hence it is clear that the post of Sub Inspector of Police belongs to Group 'B' posts.

5. 2-A Classification reads as follows:-

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

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/-

The learned Additional Advocate General further submitted that since Group C employees drawing Grade Pay of Rs.1,400 and above but below Rs.4,400/-.

6. We have anxiously considered the submissions made on either side and perused the documents placed before this court.

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. The Grade Pay for the post of Sub Inspector of Police is Rs.4800/- and hence the post of Sub Inspector of Police comes in fitment to Group 'B' and in Group B Posts, as per the Notification, no such reservation is provided; rather reservation is provided in Group C. Further, the petitioner having participated in Group C selection on the category of Scheduled Caste, secured 24.5 marks. When already the post of Sub Inspector of Police is classified as "Group B" and no reservation for Ex-servicemen is given, for the eligibility in respect of some of the Ex-servicemen, it cannot be classified in "Group B".

8. Having gone through the subsequent development and the order of the learned Single Judge, it is seen that the Government have revised the pay structure, but, no further action was taken to reserve 5% of the posts for Ex-servicemen as in the case of Group "C" posts. As pointed out by the learned Single Judge, 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 appellant to claim appointment based on such reserved posts.

9. The petitioner having participated in the selection under the category of Scheduled Caste, but not under the category of Ex-servicemen, secured only 25.00 marks, whereas the Open General S.C. Cut off marks was 48.50. Hence, the argument made on behalf of the appellant is unconceivable as because even assuming post is created under the category of Ex-servicemen, there is no guarantee for the petitioner to get selected, in view of the reason that the entire selection ultimately and necessarily depends on merit. Thus, the question of considering the appellant's selection based on the category of Ex-servicemen is ruled out. Further, as held by the learned Single Judge, the statutory rules do not provide for reservation to Ex-servicemen in Group 'B' posts.

10. It is pertinent to note that the learned Single Judge also cited the judgment of a Division Bench of this Court dated 22.11.2012 passed in W.A.Nos.533 and 534 of 2011, wherein the order of the Single Judge dated 22.01.2011 in W.P.Nos.18791 and 18792 of 2010 was confirmed holding 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.

11. In this regard, it is useful to place reliance on the decision of the Hon'ble Supreme Court in the case of

K.A.Nagamani Vs. Indian Airlines and Others reported in (2009) 5 Supreme Court Cases 515, wherein, it is observed as under:-

" 55. In Madan Lal Vs. State of J&K this Court observed: (SCC p.493, paras 9-10)

" 9. It is now well settled that if a candidate takes a calculated chance and appears at the interview, then, only because the result of the interview is not palatable to him, he cannot turn around and subsequently contend that the process of interview was unfair.....

10. Therefore, the result of the interview test on merits cannot be successfully challenged by a candidate who takes a chance to get selected at the said interview and who ultimately finds himself to be unsuccessful".

12. In view of the foregoing reasonings, we do not find any illegality or irregularity in the order passed by the learned Single Judge. Moreover, the petitioner having failed in his attempt for selection under the category of Scheduled Caste, his claim now under the category of Ex-servicemen cannot be entertained. The Petitioner, however, in the ensuing selection, if found eligible to the 'C' category, he can apply for the said post and try his luck. The petitioner, now cannot approbate or reprobate the category already opted by him. However, we are of the considered view that the petitioner could be given one more opportunity to make his attempt for selection. However, it cannot be treated as precedent for other cases.

13. In the result, the order of the learned Single Judge is confirmed. The Writ Appeal is dismissed. No costs. Consequently, connected MP is closed.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

nvsri

To

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

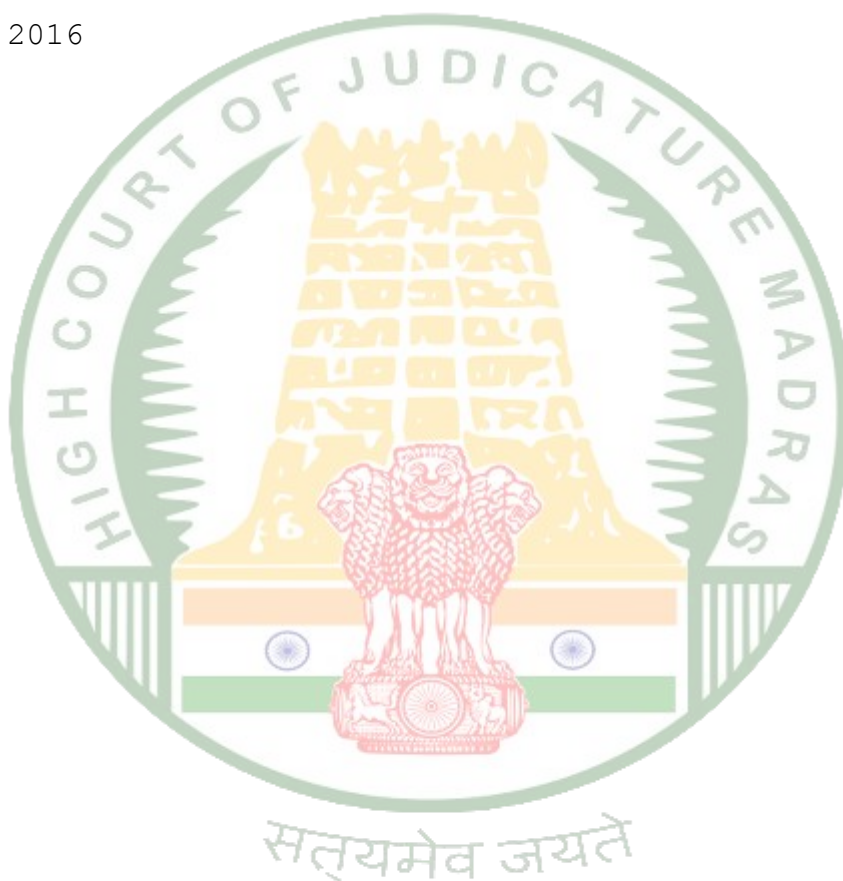
2.The Member Secretary
Tamil Nadu Uniformed Services Recruitment Board
Anna Salai, Chennai-600 002

1 cc to Mr.S.Ambigapathi, Advocate, sr.44450

1 cc to The Government Pleader, sr.44751

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rj co
kra 30.08.2016



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