

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2016

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.4388 of 2013

and M.P.No.1 of 2013

R.Menaka

.. Petitioner

Vs

The Tamil nadu Uniformed Services Recruitment Board,
Rep.by its Chairman,
P.T.Lee.Chengalvaraya Naicker Maligai,
No.807, 2nd Floor, Anna Salai,
Chennai 600 002. ... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the records relating to the proceeding made in Na.Ka.R.3/5307/2012 dated 06.02.2013 passed by the respondent and quash the same and consequently direct the respondent to treat the petitioner as a Ward cum Dependent of the employee in the Police Department in terms of the certificate dated 27.08.2012 issued by the Joint Commissioner of Police, East Zone, Egmore, Chennai 600 008 and process the petitioner's application under the said quota and select her to the post of Grade-II Police Constable (Women).

For Petitioner : Mr.G.Ethirajulu

For Respondent : Mr.R.Govindasamy
Spl.Govt.Pleader

सतयमेव जयते
O R D E R

The respondent had called for applications to the post of Grade-II Police Constable (Men & Women). As per the notifications, 10% preference was sought to be given to "Ward cum Dependent" of those, who are working in the Police Department. The petitioner being otherwise qualified, applied for the post under the "Ward cum Dependent" quota, since her father was employed as Sub Inspector of Police at Egmore Police Station, Chennai. The petitioner had successfully cleared the written examination with 48 marks as well as in the physical endurance test and consequently, certificate verification was held on 24.08.2012. However, the respondent had rejected her candidature on the ground that she had submitted the original

certificate of "Ward cum Dependent" only on 28.08.2012 and she had not enclosed the legal heir ship certificate along with the application. Aggrieved against the rejection order dated 06.02.2013, the petitioner has filed the present writ petition.

2. Heard Mr.G.Ethirajulu, learned counsel appearing for the petitioner and Mr. R.Govindasamy, learned Special Government Pleader appearing for the respondent.

3. The learned counsel for the petitioner would submit that the petitioner had obtained 48 % marks in the written examination and she is entitled to be considered for selection to the post of Grade-II Police Constable, since the cut off mark for the Ward cum Dependent is only 32%. The learned counsel for the petitioner would further submit that the written examination conducted on 24.06.2012, was followed by the physical endurance test and since she had successfully cleared the same, she was called for certificate verification on 24.08.2012. After the first date of certificate verification, the petitioner was again called upon to appear for the 2nd verification on 28.08.2012. In the mean time, the Joint Commissioner of Police, East Zone, Egmore, Chennai had issued the original certificate of "Ward cum Dependent" dated 27.08.2012 to the petitioner. Hence, during the 2nd round of certificate verification held on 28.08.2012, the original certificate was produced by her, which evidences that the petitioner is entitled for consideration under the "Ward cum Dependent" quota.

4. According to the learned counsel for the petitioner, her eligibility has to be considered as on the last date of submission of the application. Since the petitioner comes under the "Ward cum Dependent" quota, as her father was working in the Police Department, as on the last date of submission of the application i.e. 23.04.2012, her candidature ought to have been considered under the "Ward cum Dependent " quota.

5. Per contra, the learned Special Government Pleader appearing for the respondent would submit that in the Brochure it was clearly mentioned that the candidates while applying for the post ought to have submitted all the required certificates, which would be ratified with the original certificates produced at the time of certificate verification. Since the petitioner had belatedly submitted the certificate, she was ineligible to be considered under the "Ward cum Dependent" quota. According to the learned Special Government Pleader, the petitioner was considered under the BC Category, for which the cut off mark was 54 and the petitioner having secured 50% marks in the written test as well as the physical endurance test, was not selected.

6. I have carefully considered the submission made by the respective counsels.

7. The short question that arises for consideration in this writ petition is that whether the belated submission of the "Ward cum Dependent" certificate on 28.08.2012 would disqualify by the petitioner, even though she was deemed to be qualified under "Ward cum Dependent" quota, since her father was in the Police Department as on the last date of submission of the application.

8. The above said issue has already been considered in a decision of the Division Bench of this Court in W.A.No.909 & 1051 of 2015 dated 18.07.2016, wherein, it has been observed as follows:

" 10. It is well settled that suitability and eligibility have to be considered with reference to the last date for receiving the application, unless of course the notification calling for application itself prescribes such date. In the case on hand, no such date was prescribed, but for the educational qualification. Therefore, the last date for submission of application has to be construed as the prescribed date for possession of requisite qualification.

19. It is a settled proposition of law that the selection process commences on the date when the applications are invited and any person eligible on the last date of submission of the application has a right to be considered against the said vacancy provided he fulfils the requisite qualification. Therefore, it is clear that the eligibility has to be considered only on the last of submission of the application. Accordingly, in the instant case, it has to be held that the respondents were eligible to be considered for the post on the last date of submission of application."

9. It is not the case of the respondent that the petitioner was not Ward cum Dependent on the last date of submission of the application. Applying the ratio laid down by the Division Bench in the decision above, I am of the view that the impugned order dated 06.02.2013 passed by the respondent cannot be sustained.

10. Under such circumstances, the impugned order dated 06.02.2013 is set aside. The respondent is directed to

consider the Ward cum Dependent Certificate dated 27.08.2012 produced by the petitioner and treat her under the "Ward cum Dependent" quota and issue appropriate appointment order to the petitioner. The petitioner's appointment shall be made with effect from the date on which, her immediate junior was selected to the said post and the petitioner should be declared as selected under the "Ward cum Dependent" quota as on the date of the original selection. The said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

In the result, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

kkd

To

The Chairman,
Tamil nadu Uniformed Services Recruitment Board,
P.T.Lee.Chengalvaraya Naicker Maligai,
No.807, 2nd Floor, Anna Salai,
Chennai 600 002.

+1cc to Government Pleader Sr.67308

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