

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.23701 of 2008

And

M.P.Nos.1 and 2 of 2008

M.Arjunan

.... Petitioner

Vs.

1.The Director General of Police,
CBCID, Mylapore, Chennai - 4.

2.The Superintendent of Police,
Cuddalore District, Cuddalore.

3.The Chairman/ Deputy Inspector
General of Police,
Villupuram Range, Villupuram.

4.The Superintendent of Police
Villupuram District,
Villupuram.

5.Rajendran

6.Manokaran

(R4 to R6 impleaded as per Court
order dated 12/03/2009 in M.P.No.1/2009
in W.P.No.23701/2008 by VRSJ) Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the entire records relating to the impugned order passed by the second respondent in his proceedings No.D.O.65/2006 - C.No.A1.50572/A1/2005, dated 01.02.2006 and quash the same.

For Petitioner : Mr.C.Prakasam

For Respondents: Mr.P.Sanjay Gandhi for R1 to R3
Additional Government Pleader

O R D E R

The prayer in the writ petition is for a Writ of Certiorari calling for the records relating to the impugned order passed by the second respondent in his proceedings No.D.O.65/2006 - C.No.A1.50572/A1/ 2005, dated 01.02.2006 and quash the same.

2.The case of the petitioner is that he was appointed as Grade - II Police Constable on 12.01.1980. Subsequently, he was promoted as Head Constable on 10.05.2000. During his service, he received 52 rewards from the higher Police Officials for his efficient and excellent work. In the year 2005, a seniority list was prepared to promote those eligible persons as Sub Inspector of Police. As per the procedure which was in vague, a written test followed by viva voce was conducted for promotion to the post of Sub Inspector of Police. Accordingly, the second respondent conducted the written test, parade test and viva voce. Out of the 309 eligible persons including the petitioner who participated in the written examinations, only 74 Head Constables passed the said written examination. The petitioner is one among the 74. Thereafter, the passed candidates were called for viva voce and physical test including the petitioner.

3.The petitioner had participated in the viva voce and the other tests and according to the petitioner, he has satisfactorily performed the same. However, the petitioner was not selected. Thereafter, the petitioner had made representations and no orders were passed. Therefore, the petitioner is challenging the orders issued by the second respondent in the order dated 01.02.2006 where, 17 Head Constables who had participated in the said written test as well as viva voce along with the petitioner had been selected and appointed as Sub Inspector of Police.

4.Heard both sides.

5.The learned counsel appearing for the petitioner would contend that though the petitioner has performed well as he has received more than 50 rewards and awards from the higher Officials for his remarkable service throughout his career for more than 20 years and also having done well in the written test as well as viva voce test and other physical tests, the petitioner was not given proper marks and therefore, he was not

selected. Whereas, other persons covered in the impugned order who, according to the petitioner, had not performed well had been selected. Therefore, the petitioner has to be considered for selection to the post of Sub Inspector of Police in the year 2005 and all the benefits are to be conferred on him.

6.Per contra, the learned Additional Government Pleader appearing for the respondents would contend that the written test was conducted strictly in accordance with the Rules and procedures. Totally, there were 100 marks out of which 30 marks for written test, 10 marks for drill test, 10 marks for viva voce, 30 marks based on ACR grading, 10 marks for clean D sheet and other 10 marks for rewards. Only based on these criteria, marks were awarded on the basis of the performance of the individuals.

7.The learned Additional Government Pleader would further contend that the first mark obtained among the candidates who have participated in the test was 76.65 and the last mark obtained i.e., the last candidate in the 'C' list who was the 32nd rank is 58.10. However, the petitioner was able to secure only 49.50 and his name was found place at serial no.95. Therefore, the petitioner has not even reached the nearing to the cut off marks as the last candidate had obtained for selection i.e., 58.10. When that being the position, there is no scope for selecting the petitioner and therefore, absolutely there is no justifiable reason on the part of the petitioner to challenge the present impugned order, which was passed giving the promotions and postings to 17 persons only pursuant to the selection as set out above, based on their performance.

8.In this regard, the averments made in the counter affidavit could be usefully referred to hereunder:

"c.With regard to ground (c) the board considered all the eligible cases with due care and as per the rules in vogue After conducting Promotion Tests, and after proper scrutiny and due consideration, 32 HCs of Villupuram Range, were selected on the basic of the marks obtained by them in the descending order 55.10 marks was fixed as minimum for selection, where as the petitioner, though eligible to participate in the promotion tests he had scored 49.50 marks i.e. Less than minimum marks prescribed by the Range promotion Board. Therefore he was not considered to be included in the 'C' list of HCs fit for promotion as Sub-Inspectors of Police for the year 2005."

9.I have considered the rival submissions made by the learned respective counsel. Admittedly, the petitioner had participated in the test both written as well as oral. The first candidate's mark was 76.65 and the last candidate's mark was 58.10. When that being the cut off mark, no one who got lesser mark than the cut off mark can be expected to be considered for promotion. Since the petitioner has secured only 49.50 marks, based on his performance and it is not even nearer to the cut off mark, there is no plausible reason to infer that the petitioner has not been selected wrongly. Therefore, the impugned order passed by the second respondent does not suffer with any infirmities. Therefore, the same need not be interfered with.

10.In the result, the writ petition fails and therefore, it is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/

Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1.The Director General of Police,
CBCID, Mylapore, Chennai - 4.

2.The Superintendent of Police,
Cuddalore District, Cuddalore.

3.The Chairman/ Deputy Inspector
General of Police,
Villupuram Range, Villupuram.

4.The Superintendent of Police
Villupuram District, Villupuram.

+1cc to M/s.Ravi Shan Murgan, Advocate SR.No.67212

+1cc to Government Pleader SR.No.67507

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SDR 03.01.2017