

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.11.2016

DELIVERED ON : 22.12.2016

C O R A M

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.3260 of 2016
and
W.M.P.No.2688 of 2016

M.Karthik

.. Petitioner

Vs.

1.Union of India,
rep. by the Secretary,
Ministry of Defence,
South Block,
New Delhi - 110 001.

2.The Chief of Army Staff,
Army Headquarters,
Integrated Headquarters,
DHQ Post, South Block,
New Delhi - 110 011.

3.Zonal Recruiting Officer,
Headquarters Recruiting Zone,
(AP, TN, UT of Pcy & AN Gp of Is),
Chennai - 600 009.

4.Army Recruiting Officer,
Redfield,
Coimbatore,
Coimbatore District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, direct the respondents to select the petitioner as Soldier (General Duty) for the Indian Army Open Bharti Recruitment Rally, 2014 and confer all the consequential benefits.

For petitioner ... Mr.R.Shanmuga Sundaram,
Senior Counsel
for Mr.A.Gopinath

For Respondents ... Mr.R.Veludas,
Central Government Counsel

O R D E R

This writ petition has been filed for issuance of a Writ of Mandamus, directing the respondents to select the petitioner as Soldier (General Duty) for the Indian Army Open Bharti Recruitment Rally, 2014 and confer all the consequential benefits.

2.It is stated in the petition that the Indian Army had called for applications to fill up the posts for various categories, such as General Duty (GD), Technical, Nursing Assistant, Tradesman and Clerk for Indian Army Open Bharti Recruitment Rally, 2014 and the vacancies were notified zonal wise. In the advertisement, they had instructed the aspirants to appear in person in different zones. For Tamil Nadu, they notified that the candidates from Coimbatore, Dindigul, Nilgiris, Salem, Madurai, Erode, Dharmapuri, Theni, Namakkal, Krishnagiri, Tirupur Districts should appear at Dindigul venue from 04.12.2014 to 12.12.2014. Similarly, the candidates from Chennai, Thiruvallur, Kanchipuram, Vellore, Cuddalore, Vilupuram, Tiruvannamalai and Pudukcherry should appear at Avadi / Kancheepuram venue from 03.01.2015 to 11.01.2015. Similarly, the candidates from Perambalur, Ariyalur, Tiruchirapalli, Karur, Thanjavur, Thiruvarur, Nagapattinam, Pudukkottai, Sivagangai, Ramanathapuram, Virudhunagar, Tuticorin, Tirunelveli, Kanyakumari and Karaikal should appear at Tirunelveli / Tiruvarur venue from 01.11.2014 to 09.11.2014. It was also notified that in the first phase, the certificate would be verified and thereafter, physical test will be followed by medical test. Finally, if they are successful in the physical test and medical test, they will be admitted for written examination by issuing Hall Ticket (Admit Card). The selected candidates would be deputed for training and they would be paid consolidated amount.

3.It is also stated in the petition that the petitioner participated in the selection process and secured 154 out of 200 marks. However, he has not been selected. On enquiry, the petitioner came to know that the last candidates who were selected in Chennai HQ R.O. and in Tiruchirapalli A.R.O. had secured only 99.50 marks out of 200 marks and 108.50 out of 200 respectively. But, in Coimbatore A.R.O., where the petitioner participated, the last candidate, who was selected, had secured 160.50 out of 200. Since in the other zones the persons who

secured marks below the petitioner have been selected, the petitioner made a detailed representation to the third respondent on 16.06.2015 requesting to select him to the post of Soldier (General Duty). As there was no response to the same, the petitioner has filed O.A.No.83 of 2015 before the Armed Forces Tribunal, Madras Bench. The Army Tribunal, vide order dated 16.12.2015, dismissed the said application as not maintainable. Hence, he has come up with the present Writ Petition.

4.The learned counsel appearing for the petitioner made a detailed submissions adverting to the averments made in the petition. His main submission is that since there is no uniformed fixation of cut of marks, the petitioner, who secured mark higher than the candidates selected in the other zones, has not been selected and this is a clear discrimination in the selection process and therefore, a direction may be given to the respondents herein to select the petitioner to the post of Soldier (General Duty).

5. Per contra, the learned counsel appearing for the respondents by filing a detailed counter affidavit submitted that the vacancies in the Indian Army are filled up through the respective Army Recruiting Offices all over India in order to have equal representation from each area of the entire country. The recruitment in Indian Army is carried out on Recruitable Male Population (RMP) factor and the vacancies are divided amongst Recruiting Zones and further divided to various Army Recruiting Offices based on the population ratio of their area of responsibility. This is done with the view to give equal opportunity to youth of various regions / districts as literacy rate and physical standards of different regions are not uniform. The petitioner cannot compare his marks with the candidates of other Army Recruiting Office area, as they belong to a different Army Recruiting Office area with reference to distribution of vacancies.

6. The learned counsel for the respondents would further submit that the written test for different Army Recruiting Office is conducted at different location, but, at the same date and time for administrative reasons. The conduct of test and preparation of merit for Soldier General Duty is made, as per the candidates areas / districts which come under the jurisdiction of Army Recruiting Office and as per the laid down policy, to get equal representation from each area of the entire country. Thus, he sought for dismissal of the writ petition.

7.Admittedly, the Indian Army called for applications to fill up the vacancies of various categories under Indian Army Open Bharti Recruitment Rally, 2014 and the candidates from Tamil Nadu were directed to appear in three different zones,

divided District wise. The petitioner also participated in the recruitment process held at Coimbatore zone, as he is a resident of Dindigul District and secured 154 out of 200 marks. In spite of the same, he was not selected as he secured below the cut off mark fixed in that zone. Whereas in the other zones, according to the petitioner, the candidates who secured lesser marks than the petitioner were selected. Hence, according to the petitioner, this is a clear discrimination in the selection process. Whereas, according to the respondents, in order to avoid the discrimination, the vacancies are divided amongst Recruiting Zones and further divided to various Army Recruiting Offices based on the population ratio and Recruitable Male Population (RMP) ratio of their area of responsibility. The petitioner cannot compare his marks with the candidates of other Army Recruiting Office area, as they belong to a different Army Recruiting office area with reference to distribution of vacancies.

8. When the test and preparation of merit for Solider (General Duty) are being conducted based on the vacancies allotted to each Army Recruiting Office so as to have equal representation from each area of the entire country, this Court is not inclined to accept the submission made by the learned counsel for the petitioner that there is a discrimination in the selection process. More over, the petitioner has not made out any specific case by making his submission on any legal ground. There is no merit in the Writ petition.

9. In view of the above, this Writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Secretary to Union of India,
Ministry of Defence,
South Block,
New Delhi - 110 001.

2.The Chief of Army Staff,
Army Headquarters,
Integrated Headquarters,
DHQ Post, South Block,
New Delhi - 110 011.

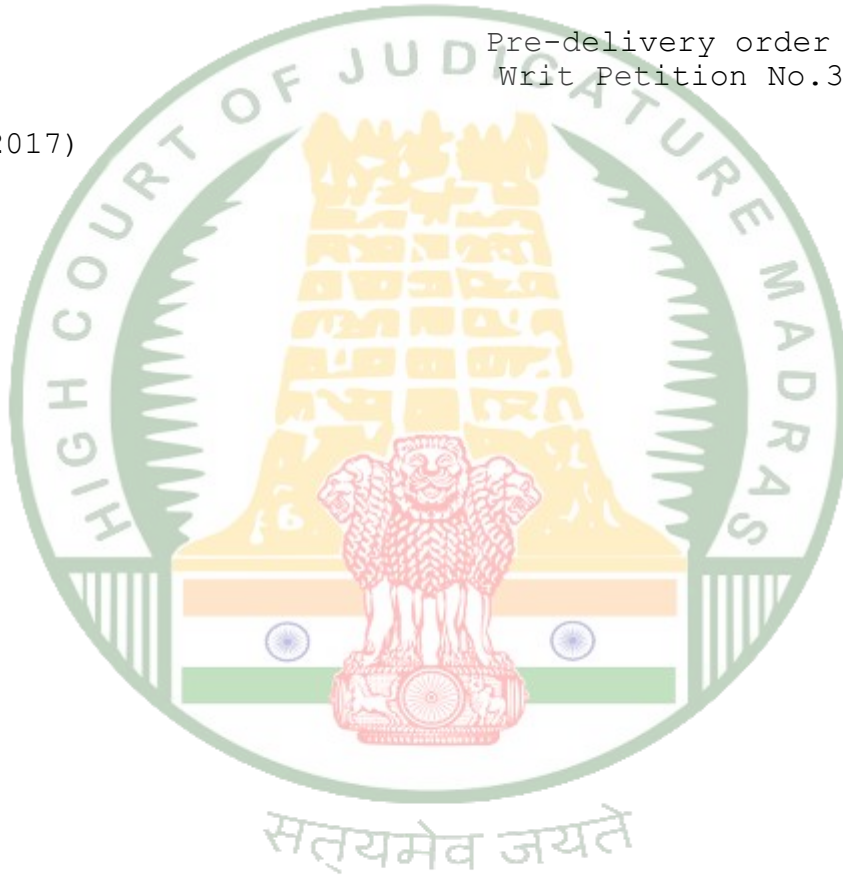
3.Zonal Recruiting Officer,
Headquarters Recruiting Zone,
(AP, TN, UT of Pcy & AN Gp of Is),
Chennai - 600 009.

4.Army Recruiting Officer,
Redfield,
Coimbatore,
Coimbatore District.

+1cc to Mr.A.Gopinath, Advocate Sr.No.74853.
+1cc to Mr.R.veludas, Advocate Sr. No.76138.

Pre-delivery order made in
Writ Petition No.3260 of 2016

MV(CO)
GN(20/01/2017)



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