

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2016

CORAM :

THE HONOURABLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.No.3509 of 2016

M.Jaganathan

... Petitioner

Versus

1.The Secretary,
Home (Police) Department,
Fort St.George, Chennai 600 009.

2.The Member Secretary,
Tamil Nadu Uniformed Service
Recruitment Board,
Chennai 600 002.

3.The Director General of Police,
Mylapore, Chennai 600 004.

.... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order (Reg.No.678246) published in online by the 2nd respondent in his proceedings No.Nil dated 16.11.2015.

For Petitioner : Mr.G.Alexander

For Respondent : Mr.S.T.S.Murthi
Government Pleader
for Mr.R.Shanmughasundar
Government Advocate R.1 to R.3

O R D E R

(The Order of the Court was made by The Hon'ble The Chief Justice)

The petitioner is working as a Grade-II Police Constable with the Tamil Nadu Railway Police and in pursuance to the advertisement dated 08.02.2015, he participated in the selection for the post of Sub Inspector of Police. The petitioner went through the process of written examination and viva voce and finally obtained 68.5% marks, which was the cut-off mark. The petitioner however, has not been selected on the ground that he had obtained a score much below the relevant cut-off marks.

2. It is unfortunate that the respondents have communicated a wrong reason to the petitioner, which has compelled the petitioner to approach this Court. The petitioner has certainly obtained the cut-off marks, albeit only at the cut-off level. The reasons stated for non-selection of the petitioner is that there are more than one candidates, who obtained the same marks and the petitioner being younger in age had lost out. This is in accordance with the terms of the selection Notification No.01/2015, wherein paragraph-7 deals with the Provisional Select List. The relevant Clause reads as under:

"7. Provisional Select List

- a. Provisional Select List is drawn based on the total marks obtained in the Written Examination, Physical Efficiency Test, Viva-Voce and Special marks subject to communal reservation and total vacancies.
- b. If there is a tie in marks, the candidate senior in age shall be given priority in selection.
- c. If the marks secured are equal, preference shall be given to the candidate who is an outstanding scout, having received an award from the President of India.
- d. If the candidate has qualified in both Departmental Quota and Open Quota, he/she will be considered under Departmental Quota only.
- e. 20% of all vacancies shall be set apart on preferential basis for the persons who studied graduation in Tamil Medium.
- f. The provisional select list will be published on www.tnusrbexams.net." ... (emphasis added)

3. In view of Sub-clause(b) of Clause-7, in case of a tie in the marks, the candidate senior in age is to be given priority in selection. The last selected candidate is thus one Mr.Srinivasan, whose date of birth is 15.06.1979 and two other candidates having the same marks, but younger in age, have missed out, including the petitioner. These candidates are i) Jeghanath (petitioner) - date of birth - 23.03.1987 and ii) Mr.Arunkumar - date of birth 13.03.1987.

4. It is undoubtedly a hard case, and we did endeavour to find out whether something could be done for the petitioner. However, it has been pointed out by the learned counsel for the respondents that this is not the only case and at various cut off marks, there are candidates who are in similar situation and thus, flood gates would open if exception was to be made for any candidate/category. Thus, we are not able to assist the petitioner.

5. The writ petition is accordingly dismissed, leaving the parties to bear their own costs. Consequently WMP.No.2863 and 2864 of 2016 are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ksr

To

1.The Secretary,
Home (Police) Department,
Fort St.George, Chennai 600 009.

2.The Member Secretary,
Tamil Nadu Uniformed Service Recruitment Board,
Chennai 600 002.

3.The Director General of Police,
Mylapore, Chennai 600 004.

+1cc to the Government Pleader, S.R.No.10246

W.P.No.3509 of 2016

MSM(CO)
CA(29/02/2016)