

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :: 06.06.2017

Delivered on :: 20.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN  
AND  
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P. No.19274 OF 2015

S.Chandrasekar ... petitioner

Vs

- 1 The Union of India  
Rept. by the Secretary to Government Home  
Department Government of Puducherry  
Puducherry.
- 2 The Director General of Police  
Office of the Director General of Police  
Government of Puducherry Puducherry.
- 3 The Superintendent of Police  
(HQ) Headquarters Police Department  
Puducherry.
- 4 M.Ramamoorthy
- 5 The Registrar  
Central Administrative Tribunal High Court  
Campus Chennai-104. ... respondents

Writ Petition filed under Art.226 of the Constitution of India praying for a Writ of Certiorarified Mandamus directing the respondents to call for records relating to the impugned order dated 02.05.2014 passed by the 5th respondent in O.A. No.410 of 2011 on the file of Central Administrative Tribunal Madras Bench and quash the same and consequently direct the respondent Nos.1 to 3 to appoint the petitioner for the post of Sub-Inspector of Police w.e.f. 01.07.2010 the date on which when the 4th respondent was appointed to the said post of Sub-

Inspector of Police with all monetary and non-monetary benefits including continuity of service.

For petitioner : Mr.Prakash Adiapadam

For Respondents : Mr.R.Syed Mustafa, Spl.G.P. (Puducherry)  
for respondents 1 to 3

Mr.P.R.Dhilip Kumar, for R-4,R-5 Tribunal

#### O R D E R

K.K.SASIDHARAN, J.

The challenge in this Writ Petition is to the order dated 2 May 2014 in O.A.No.410 of 2014 on the file of the Madras Bench of the Central Administrative Tribunal, dismissing the original application filed by the petitioner, challenging the order dated 1 July 2010, appointing the fourth respondent as Sub Inspector of Police in the Police Department, Government of Puducherry.

The facts:-

2. The petitioner submitted application for appointment to the post of Sub Inspector of Police, pursuant to the notification dated 24 September 2004. The notification was for recruitment to the post of Sub Inspector of Police under "Meritorious Sports Person Quota". The police Department published a merit list, wherein the name of the petitioner was shown at Sl.No.4. Subsequently, the candidates shown at Sl.No.1 and 2 were selected. Since the issuance of appointment order was delayed on account of the process of verification of sports certificates, the fourth respondent filed original application in O.A.No.495 of 2008. The original application was allowed by the Tribunal. Subsequently, the fourth respondent was appointed as the Sub Inspector of Police. The order in O.A.No.495 of 2008 was challenged by the petitioner before the High Court in W.P.No.10454 of 2010. The Writ Petition was dismissed as withdrawn, with liberty to approach the Central Administrative Tribunal. The petitioner thereafter filed O.A.No.410 of 2011. The Tribunal dismissed the original application. Feeling aggrieved, the unsuccessful applicant is before this Court.

3. The respondents 1 to 3 and the fourth respondent filed separate counter affidavits and justified the selection in question. The respondents have taken up a contention that since there was no challenge to the select list dated 31 December 2007

and the challenge was only to the consequential order appointing the fourth respondent, the original application is legally not maintainable.

Rival submissions:-

4. The learned counsel for the petitioner contended that two of the certificates produced by the fourth respondent were not genuine. According to the learned counsel, the communication sent by the Government of India to the Government of Puducherry clearly indicates that the signatories in those two certificates produced by the petitioner were not permitted to issue sports certificates. They were issued by a rival association, without any authority. The learned counsel contended that the petitioner participated in several events at National level. The fourth respondent participated only in few games and as such, the authorities were not correct in selecting him under meritorious sports person quota.

5. The learned Special Government Pleader (Services) Puducherry, contended that the disputed certificates produced by the fourth respondent were not taken note of, to select him as Sub Inspector of Police. The authorities considered only the undisputed certificates produced by the fourth respondent. It was found that he participated in various games and as such, he was rightly selected.

6. We have also heard the learned counsel for the fourth respondent.

Discussion:-

7. The Superintendent of Police, Puducherry, issued a notification dated 24 September 2004, calling for applications for recruitment to the post of Sub Inspector of Police under Meritorious Sports Persons Quota. The eligibility conditions indicate that the sports persons who are native or residents of the Union Territory of Puducherry and possess the required educational and other qualifications are eligible to apply for the post of Sub Inspector of Police under Meritorious Sports person quota. There is no indication in the notification with regard to the required qualification and whether the participation should be in any particular sports, or representation should be in the national or international sports and the number of certificates to the credit, for consideration.

8. The petitioner and the fourth respondent were applicants for selection to the post of Sub Inspector of Police under Sports Quota.

9. The Joint Director, Chief Inspectorate of Physical Education, Puducherry, issued a certificate to the fourth respondent on 16 January 1993, certifying that he is a meritorious sportsman of Union Territory of Puducherry and he fulfilled the conditions prescribed by the Government for appointment against sports quota. The certificate issued to the fourth respondent is not under challenge. The Police Department received as many as 15 applications for appointment to the post of Sub Inspector of Police. The merit list prepared by the Selection Committee was forwarded to the Deputy Director (Sports and Youth Services), for verification. Subsequently, and more particularly, after the conclusion of the verification process, the police Department published a select list dated 31 December 2007. The name of Thiru.V.Gokulakrishnan, was shown as the first selected candidate. The fourth respondent was shown as the second selected candidate. Since the appointment order was not given on account of the on going verification process relating to his certificates, the fourth respondent filed original application before the Tribunal in O.A.No.495 of 2008. The Central Administrative Tribunal issued a positive direction to the Government of Puducherry to appoint the fourth respondent as Sub Inspector of Police, forthwith. The Government of Puducherry, pursuant to the said order, issued an order of appointment to the fourth respondent. The appointment order was issued on 1 July 2010.

10. The petitioner without calling in question the select list dated 31 December 2007, challenged only the order in O.A.No.495 of 2008, before this Court in W.P.No.10454 of 2010. The Writ Petition was dismissed as withdrawn with liberty to approach the Tribunal. It was only thereafter, the petitioner filed the original application in O.A.No.410 of 2011.

11. The petitioner has given a chart indicating the sports certificates obtained by him and the fourth respondent. Even according to the petitioner, the fourth respondent obtained five certificates for his participation in Senior National Karate competition. The certificates were issued in Form II. The petitioner produced four certificates in Form II and few other certificates in Form III and Form IV. The petitioner seeks an order of appointment as Sub Inspector of Police by setting aside the appointment of the fourth respondent primarily on the ground that he participated in more events, than the fourth respondent.

12. The core question is as to whether the Selection Committee was expected to compare the certificates produced by the petitioner and the fourth respondent, for the purpose of taking a decision for appointment to the post of Sub Inspector of Police.

13. The notification issued by the Government of Puducherry proceeds as if appointment would be given to the meritorious sports persons. It was essentially a quota for meritorious sports person.

14. The fourth respondent obtained a certificate way back on 3 December 1993 to the effect that he is a meritorious sports person, eligible for appointment under the category for meritorious sportsman. The correctness of the said certificate is not under challenge before us. The contention of the petitioner is based on the invalidity of two certificates said to have been issued by the authorities who were not authorized at that point of time to organise sports. The petitioner placed reliance on the letter sent by the Ministry of Sports, Government of India, to the Government of Puducherry, indicating that the authorities who have issued the certificates were not the authorized authorities at that point of time and a rival faction was in office.

15. We are not here to conduct a comparative assessment of the certificates produced by the petitioner and the fourth respondent for the purpose of taking a decision as to who should be treated as the most meritorious sports person, among the two. There is no indication in the notification that a candidate who obtained maximum certificates in Form II would be selected as against a person who has participated in a less number of events. In the subject case, the fourth respondent produced five certificates in Form II. The petitioner produced four certificates in Form II. The fourth respondent participated in Senior National Karate tournament. The petitioner on the other hand took part in Senior National Hockey tournament and obtained two certificates in Form II. The petitioner was given certificates in Form II for participation in the Junior National Hockey 1997 and 1999. Therefore, it is clear that both the candidates participated in sports to make them eligible for participation in the selection process.

16. The selection Committee was expected to conduct verification of the certificate through the Deputy Director (Sports and Youth Services), Puducherry. The certificate issued by the Joint Director, Chief Inspectorate of Physical Education, Puducherry, would show that the fourth respondent is a meritorious sportsman. No other proof is necessary to arrive at a conclusion that the fourth respondent is a meritorious sports person, eligible for appointment to the post of Sub Inspector of Police.

17. The selection was made by a duly constituted Selection Committee and the appointment was made on the basis of the verification conducted by the Inspectorate of Physical

Education, Puducherry. It is not for this Court to re-appreciate the materials considered by the authorities for the purpose of taking a different view. It is also worth mentioning here that the select list dated 31 December 2007 was not challenged by the petitioner at any point of time. It was only the order appointing the fourth respondent pursuant to the direction in O.A.No.495 of 2008, which was under challenge before the Tribunal.

18. The select list was published on 31 December 2007. Thereafter, appointment was given to the fourth respondent on 1 July 2010. The fourth respondent has been working as Sub Inspector of Police for the past seven years. The materials produced by the petitioner are not sufficient to arrive at a conclusion that the fourth respondent was not eligible for appointment to the post of Sub Inspector of Police. We therefore do not find any reason to set aside the appointment of the fourth respondent.

19. In the upshot, we dismiss the Writ Petition. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

- 1 The Secretary to Government  
Home Department, Government of Puducherry  
Puducherry.
- 2 The Director General of Police  
Office of the Director General of Police  
Government of Puducherry Puducherry.
- 3 The Superintendent of Police  
(HQ) Headquarters Police Department, Puducherry.
- 4 The Registrar, Central Administrative Tribunal,  
High Court Campus, chennai-104.

+2cc to Mr.Prakash, Advocate SR.No.43266,44024

+1cc to Mr.P.R.Dhilip Kumar, Advocate SR.No.43386

W.P. No.19274 OF 2015

GN(03/07/2017)