

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20-07-2017

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WRIT PETITION No.18489 of 2017
and
W.M.P.Nos.20059 & 20060 of 2017

M.Ravi

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Petitioner

Vs.

1. The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai – 600 004.

2. The Chairman,
Tamil Nadu Uniformed services Recruitment Board,
Pantheon Road, Egmore,
Chennai – 08.

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Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of certiorarified Mandamus, to call for the records in connection with the impugned order passed by the 2nd respondent in proceedings -Nil- dated 12.07.2017 and to quash the same and further direct the respondents to permit the petitioner to participate the next stage of selection and to select and appoint him as Grade – II Police Constable under the Schedule Caste Aruthathiar (SCA) quota.

For Petitioner : Mr.S.Senthilmurugan

For Respondents : Mr.K.Venkata Ramani
Additional Advocate General – VII
Assist by Mr.K.Dhanajeyan
Special Government Pleader (For R1
and R2)

O R D E R

The writ petitioner claims to be a potential candidate for recruitment to the post of Grade-II Police Constable in Tamil Nadu Police Service. The second respondent, issued a notification, inviting applications from the eligible candidates for recruitment to the post of Grade-II Police Constables on 23.1.2017. The writ petitioner also applied for the same. Pursuant to the call letter, the petitioner appeared in the written examination held on 21.5.2017 and the results of the written examinations were published on 12.7.2017.

2. The petitioner claims that he belongs to Scheduled Caste (Chakkiliyar) which Community comes under SCA (SC Arunthathiyar). The writ petitioner was assigned with registration/enrolment No.1400476. The petitioner secured 47 marks in the written examination. But the cut off marks for the SCA category is 42. Thus, the writ petitioner has scored more than the cut off mark and

accordingly entitled to be selected. Contrarily, the impugned order of non-selection was communicated to the writ petitioner on 12.7.2017. Challenging the same, the writ petitioner moved the present writ petition.

3. The learned counsel for the writ petitioner contended that the petitioner had enclosed the Community Certificate along with the application and also shaded the relevant column available in S.No.25, i.e., list of documents to be enclosed.

4. This fact was disputed by the learned Additional Advocate General, by stating that though the writ petitioner has shaded the relevant column in S.No.25, he has not enclosed the Community Certificate to substantiate the same. The respondents have to adopt the strict procedure while dealing with lakhs and lakhs of applications by the candidates.

5. This Court do not find any mistake on the part of the respondents, since the Authorities, while dealing with the applications, have to adopt a uniform procedure and any omission on the part of the candidates, the respondents have left with no option but to reject the application.

6. When this Court is of the view that the respondents have not committed any serious mistake in rejecting the application of the writ petitioner, the Court has to look into the nature of the mistake committed by the writ petitioner and to arrive a conclusion whether such a mistake is condonable or not. In this regard, it is useful to follow the legal principles settled by the Hon'ble Supreme Court of India, in the case of **Dolly Chhanda Vs. Chairman, reported in (2005) 9 SCC 779**, his Lordship Justice G.P.Mathur, delivered the judgment while speaking for the Bench, elaborated in paragraph 7 as under:

"7.The general rule is that while applying for any course of study or a post, a person must possess the eligibility qualification on the last date fixed for such purpose either in the admission brochure or in application form, as the case may be, unless there is an express provision to the contrary. There can be no relaxation in this regard i.e. In the matter of holding the requisite eligibility qualification by the date fixed. This has to be established by producing the necessary certificate, degrees or mark sheets. Similarly, in order to avail of the benefit of reservation or weightage, etc. necessary certificates have to be produced. These are documents in the nature of proof of holding of particular qualification or percentage of marks secured or

entitlement to benefit of reservation. Depending upon the facts of a case, there can be some relaxation in the matter of submission of proof and it will not be proper to apply any rigid principle as it pertains in the domain of procedure. Every infraction of the rule relating to submission of proof need not necessarily result in rejection of candidate”.

7. Following the above judgment, the Hon'ble Division Bench of our High Court, consisting Hon'ble **Justice Nooty. Ramamohana Rao and Myself (SMSJ)**, delivered the judgment in **R.Kanagapriya vs. Secretary, Tamil Nadu Public Service Commission {WP No.29873 of 2016 decided on 19.12.2016}**, paragraphs 13 to 16 are extracted hereunder:

"13. Is every infraction liable to be viewed very seriously is the question which we need to answer.

14. When Articles 14 and 16 of the Constitution of India hold out a great promise in the form of fundamental rights to the citizens of this country, minor and non-substantial infractions indulged in by the candidates should not be considered or treated to have come in the way as an impediment for exercise of such fundamental rights. Insignificant or minor lapses that have occasioned, while filling up the application forms should not result in frustrating the very fundamental

right altogether. This apart, we take note of the fact that there is an acute dearth of good shorthand writers. The institutions like that of the Courts in general and the High Courts/Supreme Court in particular, cannot carry on with the huge volume of work, which they turn out on a day-to-day basis without even the basic infrastructure of providing the assistance of a shorthand writer.

15. Viewed in that perspective and also in view of the fact that the writ petitioner is a Post graduate in English Literature, we consider that the ends of justice would be more fully met with in the peculiar facts of this case, by treating her application as 'responsive'. But, at the same time, we should also be conscious enough in noticing that when as many as 1,593 applications have been rejected by the TNPSC for one reason or other, including the one of the writ petitioner and she alone cannot be picked up for a more favourable treatment.

16. Hence, keeping the above aspect also in mind, we direct the candidature of the writ petitioner to be considered for the post for which she applied and the respondent will now process the case of the writ petitioner for the next stage of selection process, provided, the following conditions are satisfied:-

- i) she is qualified in the written examination;*
- ii) she comes up in the merit list among Back-ward class candidates, who are shortlisted for the next*

process of selection, which might include testing her technical skills or an oral interview”.

8. In view of the legal dictum discussed above, the mistake alleged to have been committed by the writ petitioner in not enclosing the Community Certificate in support of the column shaded in the Application Form, cannot be treated as fatal and accordingly, he is entitled to for the relief sought for in this writ petition.

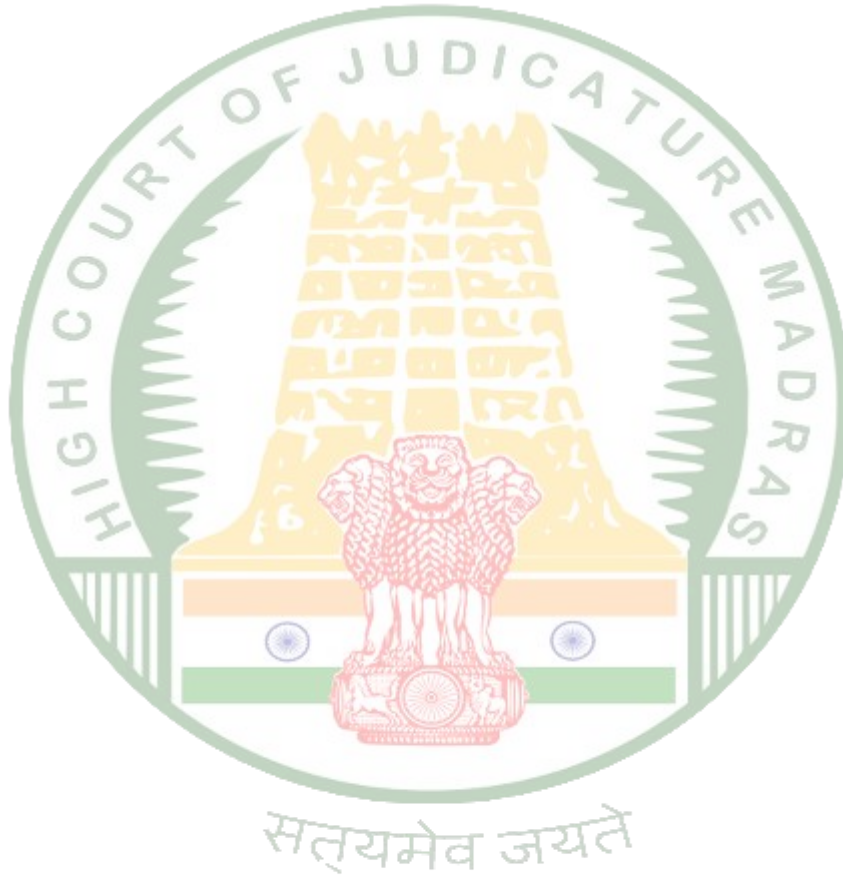
9. Thus, the writ petitioner is directed to produce the copy of the Community Certificate and other Certificates, if necessary and, on production of the same, the case of the writ petitioner to be considered and he should be selected on the basis of the marks obtained by him in the written examination. The writ petitioner should produce the Community Certificate immediately and accordingly, the respondents shall select the writ petitioner, if he is otherwise qualified in accordance with law.

10. The writ petition stands allowed, however, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

20-07-2017

Speaking Order/Non-Speaking Order
Index : Yes/No

Internet : Yes/No
kak/Svn



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S.M.SUBRAMANIAM J

kak/Svn

To

1. The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
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