

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27-07-2017

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.19425 of 2017
and
WMP Nos.20949 and 20950 of 2017

P.Saravanan

.. 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-600 008.

.. Respondents

This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records in connection with the impugned order passed by the second respondent in proceeding No.Nil published in website on 12.7.2017 and to quash the same and further direct the respondents to permit the petitioner to participate in the next stage of selection and to select and appoint him as Grade-II Police Constable under Fire Man Ward Quota.

For Petitioner : Mr.B.Thirumalai

For Respondents: Mr.K.Venkatararamani,
Additional Advocate General
Assisted by Mr.K.Dhananjayan,
Special Government Pleader.

O R D E R

The order of selection dated 12.7.2017 is under challenge in this writ petition. Further direction is also sought for to permit the writ petitioner to participate in the final selection for recruitment to the post of Grade-II Police Constable under Fireman Ward Quota.

2. The writ petitioner applied for recruitment to the post of Grade-II Constable in Police Service. His application was admitted and the petitioner was assigned with the Registration/Enrollment No.0620566. The writ petitioner claims that he has enclosed his Legal Heir Certificate for Fire Man Ward Quota.

3. The learned Additional Advocate General Mr.K.Venkataramani, appearing on behalf of the respondents, produced the Application Form submitted by the writ petitioner in Colum No.21 relating to Ward-cum-Dependant. In that Column, the writ petitioner marked as 'Yes' and specified the category as 'III'. Thus, the application was submitted to avail the quota of Fire Man Ward. The father of the writ petitioner is serving as a Fireman in Vellore District and the said fact is not disputed. Accordingly, the writ petitioner is eligible to apply under the Fire Man Ward Quota.

4. The learned Additional Advocate General contended that though the writ petitioner has marked and filed the application under the Fire Man Ward Quota, the Certificate enclosed by the writ petitioner was issued by the Assistant District Fire Officer. The learned Additional Advocate General further stated that the Certificate ought to have been issued by the District Fire Officer. Thus, the Certificate issued by the Subordinate Officer to the District Fire Officer, cannot be accepted by the Recruiting Authorities. Therefore, the rejection of the application submitted by the writ petitioner is in order and there is no infirmity.

5. No doubt, the Certificate was signed by the Assistant Divisional Fire Officer working in the District Fire Services Office. The District Fire Services Office, more-so, under the control of the District Fire Officer. Thus, this Court is of the view that there is no reason to disbelieve the Certificate issued by the Office of the District Fire Officer and even in case of any doubt, the Recruiting Authorities can

verify the same with the Officer who issued the Certificate. This mistake cannot be a ground for the rejection of the application submitted by the writ petitioner.

6. The legal principles with regard to the rejection of non-selection in the cases of such minor omissions or errors, the Hon'ble Supreme Court 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. The Hon'ble Supreme Court of India laid down the legal principles in this regard, in the case cited supra. Thus, this court is bound to follow the legal principles laid down by the Hon'ble Supreme Court in this regard.

8. Under these circumstances, this court is of the considered opinion that the judgment delivered by the Hon'ble Supreme Court of India in settling the legal principles in this regard has to be applied in the case on hand.

9. In our Great Nation, lakhs and lakhs of youths are unemployed and they are submitting applications after applications for various posts and putting tremendous effort in securing public employment withholding the State or Union. While sending such applications certain errors or omissions are

possible and such human errors are certainly to be condoned and on that ground if application is rejected, it will be genuinely harsh.

10. The concern of the Court is the genuinity of the candidate who committed such errors. Once the genuinity of omission is established, the court should provide the helping hand to such candidates who are otherwise fully qualified and meritorious. The whole object of the public employment under the constitutional scheme is to recruit the meritorious candidates in the public offices in order to provide better and effective services to the citizen of this country. Thus, this court is of the firm opinion that all public employment has to be provided to the meritorious candidates under the constitutional scheme and by following the reservations in this regard.

11. Another Division Bench of this court in a recent case passed by His Lordship Hon'ble Justice Nooty. Ramamohana Rao and Myself (SMSJ) delivered a judgment on 19.12.2016 in the case of R.Kanagapriya Vs. The Secretary, Tamil Nadu Public Service Commission as under:

"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 Backward class candidates, who are shortlisted for the next process of selection, which might include testing her technical skills or an oral interview".

12. In this view of the matter, the writ petition stands allowed and the respondents are directed to select the writ petitioner based on the marks obtained by him in the written examination, immediately, if he is otherwise qualified. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

To

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-600 008.

+ 1 cc to M/s.B.Thirumalai, Advocate,SR.53373
+ 1 cc to The Govt.Pleader, SR.54293

W.P.No.19425 of 2017

NR 17/08/2017