

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2017

CORAM

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR. JUSTICE V. PARTHIBAN

Writ Petition No.449 of 2015

and

M.P.No.1 of 2015

M.Arumugam

.... Petitioner

Versus

1 Union Territory of Puducherry
Rep. by Secretary to Government
Department of Home
Puducherry-1.

2 Recruitment Committee for
Selection and Recruitment of Group C & D
Posts in Police,
Represented by its Chairman
Puducherry.

3 The Superintendent of Police (Head Quarters)
Police Department
Puducherry.

4 K.Priya

5 M.Saranya

6 R.Akalya

7 S.Sathiya

8 A.Shanmuga Sathiya

9 The Registrar
Central Administrative Tribunal
Chennai- 600104.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the 9th respondent relating to the judgment in O.A.No. 1284 of 2012 dated 03.06.2014 and quash the order dated 03.06.2014 therein and to allow the Original Application and issue consequential direction to the official respondents 1 to 3 to grant the relief sought for therein to the petitioner herein.

For Petitioner : Mr.M.Sasikumar
For Respondents-1 to 3 : M/s.R.Syed Mustafa
Special Government Pleader

For Respondents 4 to 8 : No appearance

ORDER

(Order of the Court was delivered by V.PARTHIBAN,J.)

The Writ Petition is filed against the order passed by the Central Administrative Tribunal, Madras Bench in O.A.No.1284 of 2012 with M.A.No.771 of 2012 dated 03.06.2014 dismissing the Original Application filed by the petitioner herein.

2. The petitioner was working as Police Constable in the Union Territory of Puducherry and belongs to Most Backward Class (MBC) community. In 2010, the third respondent invited applications for filling up of 41 vacancies for the post of Sub-Inspector of Police from the residents of Union Territory of Puducherry. It appears that the petitioner herein has also responded to the notification. In the selection ensued pursuant to the notification, the petitioner was ranked next to the selected men candidates in MBC category. According to the petitioner, since respondents 1 to 3 have selected 5 women candidates in MBC category out of 7 total women candidates, which was arbitrary and violated the selection process. Since he was not selected, the petitioner approached the Central Administrative Tribunal in O.A.No.1284 of 2012.

3. In the proceedings before the learned Tribunal, the petitioner contended that there was undue selection of women candidates in his category and because of the said action of the official respondents, he was denied appointment as Sub-Inspector of Police. He had also, in the process, questioned 20% reservation envisaged in the recruitment notification dated 18.11.2010. In the said notification, it was clearly mentioned that 20% of the women reservation shall be considered under paragraph-3 of the Note. The learned counsel appearing for the Union Territory of Puducherry resisted the claim of the

petitioner stating that having participated in the selection process and accepted the terms of reservation allotted to women, he cannot turn around and questioned the reservation because of the fact that he was not selected (ultimately).

4. After taking note of the rival submissions, the learned Tribunal finally dismissed the application vide order dated 03.06.2014. The learned Tribunal has disposed of the Original Application, after rendering a finding against the petitioner as found in paragraphs-13 and 14 of the impugned judgment, which are extracted below:-

"13. In the instant case, the fact that 20% reservation was provided for women is clear from the Notification dated 18.11.2010 (Annexure A/1). The corrigendum issued subsequently related to only a portion of this Notification and it made no difference to the provision of reservation for women. Also, GOI while according approval for sanction of the posts in Police Department stipulated that 20% of the posts (including the post of SI) was to be filled by women. The Government of Puducherry could not deviate from this stipulation in the aforesaid communication of the Ministry of Home Affairs, GOI. It is, however, not clear whether there was any decision / order of the Government of Puducherry providing that the horizontal reservation for women would be a compartmental one or an overall one. Inasmuch as the selection has been made already, it may not be desirable to disturb the appointments made already. If the Government of Puducherry had not applied its mind and taken a decision earlier on how the horizontal reservation would be given effect to, it is necessary that before any recruitment is done in future, it is clearly provided in the Notification/advertisement as to how horizontal reservations for women and other categories would be made, that is, on overall basis or compartmentalised basis, so that there is no ambiguity or doubt, as observed by the Hon'ble Supreme Court in the case of Anil Kumar Gupta & Ors. vs. State of UP & Ors., decided on July 28, 1995. In regard to the prayer of the applicant in the instant OA, in case there was doubt in regard to the mode of applying the horizontal reservation, it is

left open to the respondents to consider whether any relief is to be given by way of his appointment in any existing or future vacancy of SI of Police, if otherwise eligible, without disturbing the selections made already.

14. With the above observations, the OA with MA.No.771 / 2012 stands disposed of. No order as to costs."

Against the said disposal of the Original Application, the present Writ Petition is filed.

5. The learned counsel appearing for the Union Territory of Puducherry has contended that the notification for appointment was issued way back in 2010 and all the vacancies had been filled up long ago. Moreover, he contended that having accepted the terms of recruitment notification, the petitioner cannot be allowed to question the same thereafter. Factually the issue of whether his non-appointment/non-selection was right or otherwise has been gone into by the learned Tribunal in detail and all the posts, which came under the subject notification, were filled up in 2010-2011 itself, practically, nothing survives today for consideration. The learned counsel for the respondent, therefore, prays for dismissal of the Writ Petition.

6. We gave our anxious consideration as to the basis of the claim of the petitioner. Perused all the materials and pleadings.

7. We find that the petitioner has not made out a case for any relief and therefore, the learned Tribunal has rightly disposed of the application with certain observations. We do not find any infirmity in the disposal of the Original Application and therefore, the present Writ Petition is devoid of merits and the same is dismissed. There shall no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mra

To

- 1 The Secretary to Government
Union Territory of Puducherry
Department of Home
Puducherry-1.
- 2 The Chairman,
Recruitment Committee for Selection and
Recruitment of Group C & D Posts in Police,
Puducherry.
- 3 The Superintendent of Police (Head Quarters)
Police Department
Puducherry.
- 4 The Registrar
Central Administrative Tribunal,
Madras Bench, Chennai - 600 104.

+lcc to Mr.M.Ravi, Advocate Sr.2971

+lcc to the Government Pleader Sr.2496

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srg 6/2/2017



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