

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 13.11.2017

Delivered on: 22.11.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.Nos.4585 and 4586 of 2015

M.Rajasegar Petitioner in W.P.No.4585/2015

S.Arun Prasath ... Petitioner in W.P.No.4586/2015

-vs-

1.Union of India represented by the
Secretary to Government,
Government of Union Territory of Puducherry,
Home Department, Puducherry.

2.The Inspector General of Police,
Puducherry.

3.The Superintendent of Police (HQ),
Puducherry.

4.K.Rajasekar

5.M.Murugan

6.The Central Administrative Tribunal represented
by its Registrar,
Chennai-600 104. Respondents in both the W.Ps.

W.P.No.4585 of 2015 filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus calling for the records on the file of the sixth respondent relating to the impugned order dated 16.09.2014 in O.A.No.296 of 2011 and quash the same and consequently allow the O.A.No.296 of 2011 as prayed for.

W.P.No.4586 of 2015 filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus calling for the records on the file of the sixth respondent relating to the impugned order dated 16.09.2014 in

O.A.No.225 of 2011 and quash the same and consequently allow the O.A.No.225 of 2011 as prayed for.

For Petitioner in :: Mr.T.Saikumar for
both the W.Ps. Mr.K.Kamalakumar

For Respondents in :: Mr.Syed Mustafa,
both the W.Ps. Spl.GP (Pondy) for R1 to R3

COMMON ORDER

HULUVADI G.RAMESH, J.

These writ petitions have been filed against the order passed in O.A.Nos.296 and 225 of 2011 dated 16.09.2014 by the Central Administrative Tribunal, Madras Bench, Chennai.

2. The petitioners are gold medallists in the National Level in respect of Atya Patya Sport and they were issued with necessary meritorious sports persons certificate. In response to the Notification dated 18.11.2010 inviting applications for 41 vacancies to the post of Sub-Inspector of Police, the petitioners made applications under the 'Meritorious Sports Person' quota ("MSP quota" in short) and pursuant to the same, they were subjected to physical standards test and physical efficiency test on 28.01.2011 and also wrote the examination on 06.02.2011 upon successfully completing the ground tests. When they were expecting to be selected under the said quota, it was informed that respondents 4 and 5 were selected under the said quota. Stating that the respondents 4 and 5 are less meritorious than the petitioners, the petitioners have filed the original applications before the sixth respondent-Tribunal under Section 19 of the Administrative Tribunals Act, 1985, to quash the select list dated 07.02.2011 bearing Ref.No.8850/POL/A-2/Estt.I/2011 in as much as it is concerned with the selection and appointment of the respondents 4 and 5 under the Meritorious Sports Persons Quota and consequently direct the official respondents to appoint the petitioners to the post of Sub-Inspector of Police with effect from 07.02.2011 with all service benefits, monetary benefits and back wages.

3. It was argued before the Tribunal by the petitioners that in the Notification dated 18.11.2010 whereby applications were invited for direct recruitment to 41 posts of Sub-Inspector, even though the notification did not specifically provide reservation for Meritorious Sports Persons category, it was mentioned that reservations and preferences in recruitment shall be extended as per rules in force. 5% of posts are to be reserved for MSPs as per the Memorandum of the Government of India dated 04.05.1995 and accordingly two posts ought to have

been earmarked for MSPs. Even in the call letter for certificate verification, the petitioners were directed to produce the credentials in respect of sports quota. The petitioners satisfied all the minimum eligibility physical standards in respect of height, weight and chest measurements and also cleared the minimum efficiency requirement and on successfully completing the ground test, they were issued hall tickets for the written examination. While the petitioners herein were expecting to be selected under the MSP quota, they were informed that the official respondents were considering the written examination marks in respect of MSP quota also. Even though the petitioners made a detailed representation on 04.02.2011, the third respondent published the select list dated 07.02.2011 wherein the fourth and fifth respondents were shown as having been selected as MSPs. It was also contended that according to the Rules framed by the Government of India for selection of MSPs, first preference has to be given to the candidates who have won medals at the National level.

4. It was submitted on behalf of the official respondents that as the method of recruitment for sports quota was different, the Department decided to conduct the recruitment independently and 2 vacant posts were identified for sports quota and would be notified shortly. It was also submitted that the respondents 4 and 5 though indicated as MSPs, were not shown against the said MSP quota, as they have been selected only on merit, but they were additionally sports persons.

5. After hearing both sides and perusing the documents adduced, the Tribunal had given a finding that there is no indication of horizontal reservation for MSPs in the Notification. Thereafter, referring to the Official Memorandum issued by the Home Department, Government of Puducherry dated 06.01.2011 stipulating that horizontal reservation has to be given at 5% to MSPs as per the guidelines of the Government of India out of which 20% (of 5%) quota should be filled by woman MSP and therefore, out of 41 posts, 2 posts would be in MSP category, 1 man and 1 woman and accordingly these posts should be filled by MSPs in the current recruitment itself, the Tribunal observed that this stipulation as set out in the file noting of Home Department would give credence to the claim of the petitioners, but the official memorandum was issued well after the Notification and therefore, it was not necessary that the MSP quota be operated in the recruitment process initiated vide Notification dated 18.11.2010, when the Notification did not provide for such reservation for MSPs. It was also observed that the norms of selection could not be altered mid-stream, ie., after the issue of Notification. Finally, the Tribunal rejected the prayer of the petitioners and held that they may apply as and when the next round of recruitment is taken up for the post of Sub-Inspector, subject to their being eligible.

6.Challenging the correctness of the order passed by the Tribunal, the present writ petitions have been filed by the petitioners herein.

7.The learned counsel for the petitioners contended that the petitioners are gold medallists in the National Level competition and they are more meritorious than the respondents 4 and 5/selected persons, who have not won any gold medal. He further submitted that even though the Notification did not expressly mention about the horizontal reservation for MSPs, it did mention that reservations will be carried as per the rules and that the petitioners were permitted to apply under Sports Quota.

8.Per contra, the learned Special Government Pleader (Pondy) appearing for the official respondents has submitted that there is nothing in the Notification stating that two posts out of 41 posts were reserved under MSP quota. He also submitted that the contesting private respondents, ie., respondents 4 and 5 have been selected to the post of Sub-Inspector only under the general merit category and not under MSP category. He also stated that in the results published in this regard, two persons have been mentioned as 'MSP' only to denote and indicate that they are sports persons. He further submitted that all the 41 persons have been selected only based on the marks obtained in the written examination and the sports activity was not taken as a criteria for selection.

9.When this matter came up before us earlier, we directed the Special Government Pleader to produce the marks secured by the contesting private respondents with that of the petitioners. Accordingly, they produced the marks, in which it is seen that the petitioners herein have taken only 60 and 101 marks respectively in the written test and hence not qualified, whereas the respondents 4 and 5 had secured 133 and 124 marks, qualifying in the written test.

10.After analysing the matter in detail, the Tribunal has correctly come to the conclusion that in the absence of any specific norm being fixed in the Notification calling for applications for recruitment of Sub-Inspector of Police (direct recruitment) regarding MSP quota, the action of the official respondents in selecting the respondents 4 and 5 as meritorious candidates cannot be found fault with. This Court is of the considered view that the finding given by the Tribunal is a well considered one and the same does not warrant any interference at our end. Furthermore, it is the specific stand of the official respondents that there was no quota meant for Meritorious Sports Persons, but however, subsequently if any separate Notification is issued for MSP quota, these petitioners can apply for the

same and in that circumstance, their sports achievements will be considered in accordance with law.

11.In the above stated circumstances, we are satisfied that recruitments for the 41 posts of Sub-Inspector of Police were made only on merit and the same cannot be faulted with. The writ petitions are devoid of merits and hence the same are dismissed. No costs.

12.In respect of the Notification in the case on hand, there was no reservation for MSP category. As per the guidelines of the Government of India, the two posts, said to have been earmarked under MSP category, shall be notified in the subsequent notification and these petitioners can apply for the same and in that circumstance, their sports achievements shall be considered in accordance with law. No costs.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

KM

To

1.The Secretary to Government,
Government of Union Territory of Puducherry,
Home Department, Puducherry.

2.The Inspector General of Police,
Puducherry.

3.The Superintendent of Police (HQ),
Puducherry.

+ 2 cc to M/s.R.Saravanan, Advocate,SR.83211,83212

+ 1 cc to The Govt.Pleader, SR.83169

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Order made in
W.P.Nos.4585 and 4586 of 2015

NR 06/12/2017