

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2017

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THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

W.P.No.2991 of 2010

R.Vidyakar

... Petitioner

Vs

1.The Director General of Police,
Tamil Nadu Circle,
Mylapore,
Chennai 600 004.

2.The Chairman,
Tamil Nadu Uniform Services-
Recruitment Board,
807, 2nd Floor, Anna Salai,
Chennai 600 002.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records in Na.Ka.No.D1/0442/2009 dated 24.08.2009 on the file of second respondent herein and quash the same as illegal and direct the respondents to appoint the petitioner as Grade-II Constable on compassionate grounds to secure the ends of justice.

For Petitioner : Mr.R.Sankarasubbu

For Respondents : Mr.K.Venkataramani,
Additional Advocate General,
Assisted by
: Mr.S.Gunasekaran,
Additional Government Pleader

O R D E R

Heard Mr.R.Sankarasubbu, learned counsel for the petitioner and Mr.K.Venkataramani, learned Additional Advocate General appearing for the respondents.

2. The petitioner has approached this Court, seeking the following relief,

"To issue a writ of Certiorarified Mandamus, to call for the records in Na.Ka.No.D1/0442/2009 dated 24.08.2009 on the file of second respondent herein and quash the same as illegal and direct the respondents to

appoint the petitioner as Grade-II Constable on compassionate grounds to secure the ends of justice.”

3. The case of the petitioner is as follows:-

The petitioner's father served in police force as Head Constable and died while in service on 12.05.2005. At that time, he was serving in R.3 Ashok Nagar Police Station, Chennai. The petitioner hails from Scheduled Caste community and has passed +2 examination in the year 2003. According to the petitioner, the deceased father left behind his wife, the mother of the petitioner, one unmarried sister and two elder brothers who were already married and left the family. The family is therefore fully depend on the petitioner for livelihood.

4. When the selection notification was published in the year 2008, for recruitment of Grade-II Constable, the petitioner had applied. Thereafter, he was called and subjected to selection. The petitioner had in fact applied for consideration of his candidature for appointment to the post of Grade II Constable under wards quota, since his father served as Police Constable and died. Thereafter, no information was forth coming, as to the status of the selection, he was constrained to approach this Court in W.P.No.1402 of 2009, this Court on 17.07.2009, directed the second respondent to consider the representation of the petitioner and pass orders.

5. In pursuance of the direction passed by this Court in the aforesaid writ petition, an order was passed by the second respondent, rejecting the claim on the ground that no proper certificate was enclosed, certifying him as a son of the deceased Constable and therefore, his name was not considered under the said quota. In the rejection order, it is also mentioned that the selection was already over long ago and further consideration of his claim could not be done. The said rejection order is put to challenge in the present writ petition.

6. The learned counsel for the petitioner, at the outset, would submit that according to the respondents, the petitioner ought to have obtained a certificate as required, certifying him as a son of the deceased Constable employee, in order to make him eligible for consideration for appointment under wards quota. He has to obtain a certificate from only the competent authority viz., the Joint Commissioner of Police, so far as the city of Chennai is concerned. Unfortunately, the petitioner merely obtained a certificate from the Inspector of Police, R.3 Police Station, Ashok Nagar, where his father had served.

7. The learned counsel for the petitioner would submit that it was only an inadvertent mistake, lack of proper guidance that the petitioner had submitted the certificate from a different authority than the competent authority, as required by the second

respondent. According to the learned counsel, in any case, the first respondent who is the head of the Police, by his proceedings dated 09.09.2009, has clearly requested the second respondent, the appointing authority, to consider the claim of the petitioner under wards quota and the action taken report may be sent to his office immediately for further action.

8. Earlier to the above letter, the first respondent addressed another communication dated 10.08.2009, to the second respondent requesting to consider the case of the petitioner under the said quota based on the ward certificate as in the case of the other similarly placed persons. In spite of the communications of the Director General of Police, the first respondent herein, without giving due consideration of the first respondent's opinion, the second respondent had mechanically passed the impugned order, rejecting the claim of the petitioner.

9. Upon notice, learned Additional Government Pleader appearing for the respondents, entered appearance and filed a counter affidavit. In the counter affidavit, it is not disputed that the petitioner was entitled to be considered under the wards quota and it is not disputed that he had secured enough marks being considered under wards quota. However, the only point on which, the writ petition sought to be resisted by the learned counsel for the respondents that the certificate obtained was from incompetent authority and therefore, his candidature was not considered, in fact, that was the reason stated in the impugned order.

10. Although the learned Additional Government Pleader sought to resist the case of the petitioner on a single ground as stated in the impugned order as well as in the counter affidavit, this Court is of the considered view that no credence to be given to such argument, since the reasons set forth amounts to hyper technical objections. However, the facts of the matter is the petitioner is the son of the deceased Police Constable, he was therefore entitled to be considered under wards quota. But, unfortunately, the appointment could not be given only on the issue of non-grant certificate by the competent authority viz., the Joint Commissioner of Police.

11. This Court is of the considered view that such a narrow and rigid view need not be taken by the authority concerned for denying a very valuable appointment to the petitioner who had lost his father in the force. Moreover, it has to be seen that considering the over all circumstances, the first respondent who is none other than the head of the police force, viz., the Director General of Police, by two of his proceedings had recommended for consideration of appointment of the petitioner, on the basis of extension of benefit to the similarly placed candidate. Such being the case, this Court does not find

justification for giving different treatment to the petitioner in the matter of appointment by the second respondent.

12. In the above circumstances, the petitioner has made out a case for grant of relief in all fours. Therefore, this Court has no hesitation to allow the writ petition. The impugned order in Na.Ka.No.D1/0442/2009 dated 24.08.2009 is set aside. There shall be a consequential direction to the second respondent to grant appointment to the petitioner as Grade II Constable, in any one of the existing vacancies under wards quota. The direction shall be complied with by the second respondent within a period of eight weeks from the date of receipt of a copy of this order.

13. With the above direction, the writ petition stands disposed of. No costs.

Sd/-
Deputy Registrar

/true copy/

Sub Asst. Registrar

gsk

To

1.The Director General of Police,
Tamil Nadu Circle,
Mylapore,
Chennai 600 004.

2.The Chairman,
Tamil Nadu Uniform Services-
Recruitment Board,
807, 2nd Floor, Anna Salai,
Chennai 600 002.

+ 1 cc to Mr.R.Sankarasubbu Advocate, SR.368

+ 1 cc to The Govt.Pleader, SR.92531

NR 16/02/2018

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