



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.11.2017

C O R A M

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THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P. (MD) No.17625 of 2017

and

W.M.P. (MD) Nos.14176 & 14177 of 2017

Ponnumani.M

... Petitioner

Vs.

1.The Tamil Nadu Uniform Service Recruitment Board,
Represented by it's Chairman,
Old Commissioner Office Campus,
Panthian Road, Egmore,
Chennai-600 008.

2.The Tahsildar,
O/o. The Taluk Office,
Peraiyur Taluk,
Madurai District.

... Respondents

(2nd respondent impleaded vide order
of this Court dated 29.11.2017 made
in W.M.P. (MD) No.17202/2017)

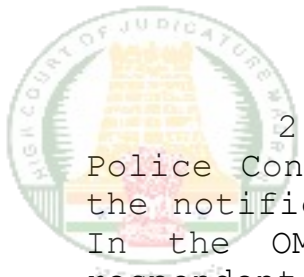
Prayer: Writ Petition filed under Article 226 of the constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned communication containing the petitioner's individual marks and the remarks as "Not Selected" published in the respondent website on 09.09.2017 by the respondent and quash the same as illegal and consequently to direct the respondent to select and appoint the petitioner as the Grade-II Police Constable or Grade-II Jail Warder or Fireman under SC(A) category within the time stipulated by this Court.

For Petitioner : Mr.S.Louis

For Respondent : Mr.B.Pugalendhi,
Additional Advocate General,
assisted by Mr.R.Velmurugan,
Government Advocate.

O R D E R

Heard Mr.S.Louis, learned counsel appearing for the petitioner and Mr.B.Pugalendhi, learned Additional Advocate General, assisted by Mr.R.Velmurugan, learned Government Advocate appearing for the respondents.



2.The petitioner had applied for the post of Grade-II Police Constable or Grade-II Jail Warder or Fireman, pursuant to the notification dated 23.01.2017, issued by the first respondent. In the OMR sheet of his application submitted to the first respondent, the petitioner had shaded column No.6 relating to community as No.1 'Scheduled Caste' and shaded column No.7 relating to sub-caste serial number as No.110. In support thereof, the petitioner had also produced his Community Certificate dated 14.03.2011 issued to him by the second respondent, wherein it has been mentioned that he belongs to 'Chakkiliyan' caste, which is recognized as Scheduled Caste as per the Scheduled Caste and Scheduled Tribes Orders (Amendment) Act, 1976 vide serial No.110. According to the first respondent, based upon entries made in column Nos.6 and 7 of the OMR Sheet of the petitioner, he had been considered as candidate belonging to 'Scheduled Caste' and as he had not fallen within the cut-off mark of that category, he had not been selected.

3.It requires to be noticed here that the 'Chakkiliyan' caste has been indicated as item No.12 in the list of Scheduled Castes as well as the list of Scheduled Caste (Arunthathiyar) provided along with the brochure and there is no reference to sub-caste No.110 in those two lists. The learned counsel for the petitioner submits that the petitioner had shaded No.110 in the sub-caste serial number in column No.7 of the OMR Sheet based upon the entry to that effect made in his community certificate dated 14.03.2011 issued by the second respondent. It is obvious that there has been an apparent difference in the serial number for the 'Chakkilian' sub caste in the list of sub-castes provided with the brochure and in the item no. of sub-castes mentioned in the community certificate dated 14.03.2011 issued by the second respondent to the petitioner.

4.The petitioner, on finding that the persons, who belonged to SC (Arunthathiyar) community with lesser marks than him had been selected, has filed this Writ Petition challenging the publication of his result as "not selected" and for consequential directions to appoint him as Grade-II Police Constable or Grade-II Jail Warder or Fireman under Scheduled Caste (Arunthathiyar) category.

5.After the filing of the Writ Petition, the petitioner has obtained another community certificate dated 06.11.2017, from the second respondent as belonging to Scheduled Caste (Arunthathiyar) indicated at the top, while mentioning that the petitioner belongs to 'Chakkiliyan' Community, which is mentioned at serial No.12 of the Scheduled Caste and Scheduled Tribes Orders (Amendment) Act, 1976.

6.The crux of the grievance of the petitioner is that though he actually belongs to Scheduled Caste (Arunthathiyar) community, he is considered only under the 'Scheduled Castes' and denied selection despite having secured the cut of mark for 'Scheduled Castes (Arunthathiyar)' community.



7.The learned counsel for the petitioner relying on the order dated 29.09.2016 passed by this Court in W.P.(MD)Nos.31388, 31741 and 33390 of 2016 dated 29.09.2016 and in the decision in *National Institute of Fashion Technology, represented by its Director General and another Vs. V.S.Jayya Vishrant* [(2017) 7 MLJ, 714], wherein under similar circumstances, the change to correct the classification of community of the candidate (which had been erroneously entered) had been permitted, submits that the petitioner should be permitted to make a representation along with his community certificate dated 06.11.2017 issued by the second respondent to the first respondent for reconsidering the application of the petitioner by treating him as Scheduled Caste (Arunthathiyar) Community.

8.Having regard to the aforesaid factual backdrop under which the petitioner had mentioned his community as 'Scheduled Caste' instead of 'Scheduled Caste (Arunthathiyar)', at the time of submitting his application, it is directed that if any such representation is made by the petitioner on or before 15.12.2017, the first respondent shall dispassionately consider the same and pass appropriate orders on merits in accordance with law and communicate the decision to the petitioner on or before 31.12.2017.

9.The Writ Petition is accordingly disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Writs)

/True copy/

Sub Assistant Registrar

To

- 1.The Chairman,
Tamil Nadu Uniform Service Recruitment Board,
Old Commissioner Office Campus,
Panthian Road, Egmore,
Chennai-600 008.
- 2.The Tahsildar,
O/o. The Taluk Office,
Peraiyur Taluk,
Madurai District.

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