



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:22.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU
W.P. (MD)No.19589 of 2017
and W.M.P. (MD)No.15861 of 2017

Muthuraman

... Petitioner

Vs.

- 1.The Member Secretary,
Tamilnadu Uniformed Services Recruitment Board,
Chennai.
 - 2.The Chairman Sub-Committee,
Tamilnadu Uniformed Services Recruitment Board,
Ramanathapuram Centre,
Ramanathapuram.
- ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to issue the petitioner the training order in the Common Recruitment for the posts of Gr.II Police Constables (Men, Women & Third Gender), Gr.II Jail Warders (Men & Women) and Firemen for the year 2017.

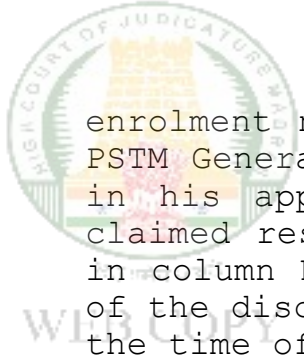
For Petitioner : Mr.R.Venkateswaran

For Respondents : Mr.B.Pugalendhi
Additional Advocate General
Assisted by Mr. A.K.Baskara Pandian
Special Government Pleader.

O R D E R

This Writ Petition has been filed for issuance of a Writ of Mandamus, directing the 1st respondent to issue the petitioner the training order in the Common Recruitment for the posts of Gr.II Police Constables (Men, Women & Third Gender), Gr.II Jail Warders (Men & Women) and Firemen for the year 2017.

2.The respondents, viz., Tamilnadu Uniformed Services Recruitment Board had issued a notification dated 23.01.2017 for common recruitment for the post of Grade II Police Constables, Grade II Jail Warders and Firemen for the year 2017, inviting applications from Indian Citizens only through postal mode (upto 22.02.2017). The written test was held on 21.05.2017 and the candidates, who were qualified were allowed to participate in the Physical Measurement Test/Endurance/Physical Efficiency Test and the provisional list was published on 31.08.2017. The petitioner, whose date of birth is 10.10.1995, applied in the said recruitment with



enrolment number No.2800951 and he belonged to MBC community under PSTM General category and opted for preference to the Armed Reserve in his application in Column No.16. Further, the petitioner had claimed reservation under Ex- servicemen quota by shading as 'Yes' in column No.9 provided for the same but had not enclosed the copy of the discharge certificate along with his application. However, at the time of certificate verification he had produced the original of his Ex. Servicemen Discharge Certificate on 01.08.2017 before the Sub-Committee, Ramanathapuram of the respondent, showing that he got discharged from the Armed Service on 03.10.2016 on medical grounds.

3.The petitioner had secured 63 marks and the cut of mark in respect of PSTM candidates under MBC candidates for Armed Reserve was 73 marks with date of birth as 05.05.1998 and in respect of 5% quota reserved for Ex. Servicemen in that category, the cut of mark was 44 marks with date of birth as 30.04.1991. Since the petitioner had not produced discharge certificate from the Army Service along with his application, he was treated as a PSTM candidate falling under MBC category but the benefit of treating him as Ex. Servicemen was not extended to him resulting in not selecting him for recruitment in the category of Armed Reserve. Aggrieved by the refusal of the respondents to consider him as an Ex-servicemen and grant him that benefit under 5% quota reserved for the Ex-servicemen for the Armed Reserve category for which the cut off mark was 44 as against 63 marks secured by him, the petitioner has filed the present writ petition for directing the respondents to issue him training order in the recruitment for that post for the year 2017.

4.A counter affidavit has been filed by the 1st respondent pointing out that the eligibility for applicant under 5% quota for ex-servicemen as mentioned in para VI (C) 2 & 4 of the notification in Tamil version translated in English is follows:-

"VI (C) 2 - The Ex-servicemen and the Central Paramilitary Force Personnel have to enclose the "Discharge Certificate" along with their application.

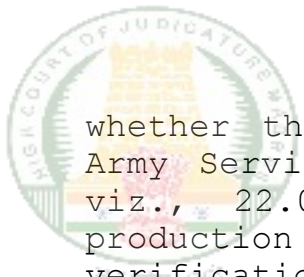
VI (C) 4 - The Ex-servicemen and the Central Paramilitary Force Personnel, if failed to enclose their "Discharge Certificate" in their application Form, they will not be considered for 5% quota for reservation."

On the basis of the aforesaid instructions, which according to the respondents are mandatory in nature, the petitioner ought to have enclosed a copy of the discharge certificate along with his application without fail, failing which he is not entitled to be considered for 5% quota for reservation for Ex-servicemen.

5.Heard Mr.R.Venkateswaran, learned counsel appearing for the petitioner and Mr.B.Pugalendhi, learned Additional Advocate General, assisted by Mr.A.K.Baskara Pandian learned Special Government Pleader appearing for the respondents and perused the materials placed on record.

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6.The question that arises for consideration in this case is



whether the requirement to submit the discharge certificate from Army Service before the last date for submission of application, viz., 22.02.2017 was mandatory in nature and the subsequent production of the same by the petitioner at the time of certificate verification on 01.08.2017 would not entitle him to claim the benefit for consideration of selection in the 5% quota reserved for Ex-servicemen for whom the cut of mark was 44 as against 63 marks secured by him.

7.The Hon'ble Supreme Court of India in the decisions in *Charles K. Skaria -vs- Mathew* [AIR 1980 SC 1230] and *Dolly Chhanda -vs- Chairman, JEE* [(2005) 9 SCC 779] and the decisions of the Division Bench of this Court in *Premanand -vs- The State of Tamil Nadu* [1995 (2) MLJ 325], *Dr.A.Rajapandian v. State of Tamil Nadu* [2006 (5) 529] and *Secretary, TNPSC v. M.Chitra* [(2010) 2 MLJ 146] and the decision of the learned Single Judge of this Court in *C. Stella Mary v. TNPSC* [(2009) 6 MLJ 1211], have held that where the applications were called for under the specific category, the crucial factor to be considered is whether on the date prescribed for submission of the application, the candidate belongs to that category and the production of certificate is only to prove the said fact and that failure to produce the same along with application but before finalization of the list of candidates would suffice for selection of such person under that category and would not prejudice the cause of other candidates. Applying the aforesaid principles laid down in the said decisions, it would necessarily follow that the said clauses relied by the respondents cannot be treated as mandatory in nature and the production of the required certificate on 01.08.2017 at the time of verification before the finalization of the results would suffice for considering the petitioner under the category of Ex-servicemen in the selection for the post in the category of Armed Reserve.

8.Resultantly, the Writ Petition is allowed and the respondents shall treat the petitioner as belonging to Ex-serviceman and consider him for selection as Grade II Police Constables Armed Reserve for the recruitment for the year 2017 under the category of Ex-servicemen and communicate such decision taken to the petitioner on or before 31.01.2018. No costs. Consequently, the connected Miscellaneous Petitions is closed.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

1.The Member Secretary,
<https://hcservices.ecourts.gov.in/hcservices/>
Tamilnadu Uniformed Services Recruitment Board,
Chennai.



2.The Chairman Sub-Committee,
Tamilnadu Uniformed Services Recruitment Board,
Ramanathapuram Centre,
Ramanathapuram.

+1cc to M/S.Special Government Pleader,SR. 94327
+2cc to Mr.R.VENKATESWARAN,Advocate,SR.94234

W.P. (MD) No.19589 of 2017
22.12.2017

SJ
KK/GT/SAR 2/05.01.2018/ 4P- 6C/