

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13-02-2018

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.1120 of 2018

And

W.M.P.No.1388 of 2018

K.Mathaiyan

.. Petitioner

-vs-

1.The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
Chennai-600 003.

2.The Secretary to Government,
Personnel and Administrative Reforms (S)
Department,
Secretariat,
Chennai-600 009.

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the first respondent to permit/call for the petitioner for oral test/interview to be held from 22.1.2018 by taking his name under the Ex-serviceman quota, without taking into the restriction mentioned in G.O.(Ms.)No.89, Personnel and Administrative Reforms Department, dated 12.8.2015 issued by the second respondent, by virtue of successful completion of Preliminary Examination, Main Examination and Certificate Verification on 4.10.2017, in respect of the recruitment to the Post included in the Combined Civil Services Examination-II, (Interview Posts) (Group II Services) for the years 2014-2015 and 2015-2016 as per the Notification No.7/2015 dated 30.4.2015.

For Petitioner - Mr.R.Prabhakaran

For Respondent-1 - Dr.M.Devendran,
Standing Counsel.

For Respondent-2 - Mr.V.Kadhirvelu,
Special Government Pleader.

ORDER

Mr.K.Mathaiyan, who is an ex-serviceman, has filed this writ petition, seeking a Writ of Mandamus, directing the Secretary, Tamil Nadu Public Service Commission, Chennai/first respondent herein, to permit him to attend the oral test/interview to be held on 22.1.2018 by taking his name under the ex-serviceman quota, without referring to the restriction mentioned in G.O. (Ms.)No.89, Personnel and Administrative Reforms Department, dated 12.8.2015 issued by the Secretary to Government, Personnel and Administrative Reforms Department, Chennai/second respondent herein. Since the petitioner has completed both preliminary examination and main examination and his certificate verification on 4.10.2017 in respect of the recruitment to the post included in the Combined Civil Services Examination-II (Interview Posts) (Group II Services).

2. The first respondent issued Notification No.7 of 2015 dated 30.4.2015 for recruitment to the post included in the Combined Civil Services Examination-II (Interview Posts) (Group II Services) for the years 2014-2015 and 2015-2016, the petitioner also applied for the said post on 19.5.2015. Thereafter, G.O.(Ms.) No.89, Personnel and Administrative Reforms Department, dated 12.8.2015 was issued by the second respondent, making some amendments to in Part I - Preliminary, in Rule 2 after sub-rule (7), which is extracted hereunder:-

"Provided that in all cases, an ex-serviceman once recruited to a post in any class or service or category, cannot claim the concession of being called an ex-serviceman for his further recruitment."

Thereafter, the first respondent issued another Memorandum in Memorandum No.2440/OTD-B1/2014, dated 4.10.2017 for Certificate Verification.

3. In the meanwhile, the petitioner has passed through both preliminary and main examinations and thereupon, he was also called upon to attend Certificate Verification on 4.10.2017. During Certificate Verification, the first respondent gave a Declaration Form and compelled the petitioner to state that as if he is aware of G.O.(Ms.) No.89, Personnel and Administrative Reforms Department, dated 12.8.2015, issued by the second respondent as amendments to (1) in Part I - Preliminary, in Rule 2 after sub-rule (7) and (2) in Part II - General Rules, in Rule 52. In the said Government Order Amendments have been made to the effect provided that in all cases, an ex-serviceman once recruited to a post in any class or service or category, cannot claim the concession of being called an ex-serviceman for his further recruitment. The petitioner also given his declaration

in view of the compulsion put against him.

4. Since the said Government Order G.O.Ms.No.89, dated 12.8.2015, cannot be made applicable to the case of the petitioner, for the simple reason that after the selection process was almost over, the said Government Order, cannot be made applicable to the petitioner. But this Court is unable to find any merits. Admittedly, the petitioner is a Graduate in English Literature and he had joined the Indian Army as Havildar in the year 1999 and after completion of nearly 17 years of his qualifying service, the petitioner was discharged and recommended for civil employment. Based on which, he applied to the post under Group-II A Service (Non-Interview Post) under the Ex-serviceman quota and finally he was selected and appointed as Assistant in the School Education Department and currently, the petitioner is working at Krishnagiri.

5. While serving as an Assistant, he has come to know about the Notification No.7 of 2015 issued by the first respondent on 30.4.2015 and applied for the said post. During the midst of the selection process, the first respondent cannot disqualify the petitioner on the ground that an amendment has taken place, stating that an ex-serviceman once recruited to a post in any class or service or category, cannot claim the concession of being called an ex-serviceman for his further recruitment.

6. While considering the similar issue, I have held in paragraphs 7 to 9 of the order passed in WP No.14927 of 2017 dated 11.8.2017, which reads as under:-

"7. The learned Special Government Pleader appearing for the respondents submitted that although Rule 14 of the Rules r/w. Annexure II exempts all the Ex-Servicemen served as Drivers, Auto Mechanics, Auto-Electricians and Armourers from undergoing physical measurement test and Physical Efficiency Test for the post of Grade - II Police Constable, in the year 2014, the Government have issued G.O.(Ms) No.998, Home [Police VI] Department, dated 27.12.2014, deleting the provision namely, Explanation-II appended to Annexure - II of the Rules, granting exemption to Drivers, Auto Mechanics, Auto-Electricians and Armourers from undergoing physical measurement test and Physical Efficiency Test for the post of Grade - II Police Constable. Therefore, the petitioner cannot ask any more exemption, as there is no provision to enjoy exemption from

undergoing physical efficiency test.

8. I fully agree with the submission made by the learned Special Government Pleader appearing for the respondents. This Court is unable to entertain the writ petition. Moreover, G.O. (Ms)No.998, Home [Police VI] Department, dated 27.12.2014, has done away with the exemption provision granted in favour of Ex-Servicemen served as Drivers, Auto Mechanics, Auto-Electricians and Armourers etc.

9. In the light of the above, this Writ Petition fails and the same is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed."

7. In view of the earlier order passed in the writ petition, cited supra, the present writ petition fails and it is dismissed accordingly. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

svn

To

1.The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
Chennai-600 003.

2.The Secretary to Government,
Personnel and Administrative Reforms (S)
Department,
Secretariat,
Chennai-600 009.

+1cc to Mr.Dr.M.Devendran, Advocate, S.R.No.11039

+2cc to Mr.R.Prabhakaran, Advocate, S.R.No.11095

W.P.No.1120 of 2018

KAN(CO)
RRK(15/02/2018)