

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 05.09.2018

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THE HONOURABLE MR.JUSTICE SATRUGHANA PUJAHARI

W.P.No.23125 of 2018
and W.M.P.No.27014 of 2018

M.Aravindhan

.. Petitioner

Vs

Tamil Nadu Uniformed Services Recruitment Board,
Rep by its Member Secretary,
Panthiyan Street,
Egmore , Chennai - 600 008

.. Respondent

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondent to consider the representation of the petitioner dated 31.08.2018 and to include the petitioner's name in the selected list of candidates passed the written examination for the post of Grade II Police Constables, Grade II Jail Warders, Fireman 2017-2018 (Centre Code 07, Thiruvannamalai District).

For Petitioner : M/s.A.Arulmozhi

For Respondent : Mrs.Narmadha Sampath,
Additional Advocate General
Asst by Mrs.R.Janaki,
Additional Government Pleader

ORDER

It appears that the petitioner had submitted his application for recruitment to the post of Gr-II PC, Jail Warden, Fireman in different wings of Tamil Nadu Police conducted by Tamil Nadu Uniformed Service Recruitment Board. Though the petitioner is possessing Xth standard mark sheet but while the respondent sent an email to upload the said certificate, he approached the Internet center person to upload the certificate but inadvertently the same was not uploaded. The petitioner came to know that his name was included in the Provisional Selection List and as such he approached the respondent, who in turn informed that his Xth standard mark

sheet was not uploaded and as such he was not selected. Hence, the petitioner has now come out with a case that due to mistake of Internet center person uploading the application, the respondent be directed to include his name in the provisional list of selection for consideration to the next round of test.

2. The learned counsel appearing for the petitioner, submits that since the petitioner admittedly has the necessary certificate and has obtained prescribed cut off marks, he should have been considered and called for to participate in the next round of selection that is physical test. In such premises, the petitioner has made the aforesaid prayer with an interim relief to keep one post vacant in the recruitment, pending disposal of the writ petition.

3. The learned Additional Advocate General appearing for the respondent, submits that since the petitioner having not uploaded the necessary certificate, he cannot be heard of saying that his non-inclusion in the provisionally selection list was illegal and arbitrary and as such, he cannot be considered and hence, the writ petition being devoid of merit, he is not entitled to the interim relief also. The learned Additional Advocate General further, submits that sufficient number of candidates having been called in the ratio of 1:5 which is the norm prescribed and the petitioner on its own having not uploaded the certificate, allowing the petitioner at this stage to participate in the second round of test by rectification of the defect, would cause prejudice to the last candidate included in the list, that would dislodge the last candidate included in the provisional list as the respondent has to prepare the provisional list in the ratio of 1:5. Since the last candidate included, has not been made a party to this writ petition, allowing the prayer of the petitioner without hearing the said candidate included in the list would be an affront to the principle of Audi alteram partem, a salutary principle of natural justice. Hence, the learned Additional Advocate General submits the petitioner deserves no sympathy.

4. However, during the course of hearing, it was not disputed that in earlier occasions in similar facts and situations, this Court had granted relief to the respective writ petitioners as it was not brought to the notice of this Court by the respondent that the provisional list is in the ratio of 1:5. In the said orders, therefore this Court had not taken note of the prejudice to be caused for inclusion of those petitioners on rectification of the defect to the candidates included as it is the norm to call the candidates in the ratio of 1:5. The same is brought to the notice of the Court for the first time today. But, it is also not in dispute that when there are more than one candidate in the last cut off, all are required to be

included in the provisional list for the second round of test even if the number exceeds in the ratio of 1:5. Taking note of the aforesaid norms and the petitioners case who happens to be a more meritorious candidate than the candidates included in the provisional list belonging to his category and in similar facts and situations this Court has already directed inclusion of some candidates in the provisional list subject to verification of their possessing the required document on the date of application and also their marks secured is more than / or equal to the last cut off of the category to which they belong, the prayer of the petitioner also needs to be allowed rejecting the objection of the learned Additional Advocate General. Accordingly allowed.

5. However, the inclusion of the petitioner and similar persons already ordered to be included, shall not be prejudicial to the candidates already included in the provisional list, holding that the same shall be affront to the norm of the ratio of 1:5. In other words, candidates already included in the provisional list shall not be dislodged for inclusion of the petitioner and others in pursuant to the order of this Court.

6. Since the aforesaid order has been passed in the presence of the learned counsel appearing for the respondent, the same be communicated to the respondent that this Court has allowed him to participate subject to verification of his 10th standard mark sheet and other qualification and also the qualifying cut off marks in the category to which the petitioner belongs. The petitioner may also furnish an affidavit in this regard before the respondent, who on receipt of the same shall act accordingly without awaiting for this order but the petitioner shall produce the order immediately on receipt of the same. However, production of affidavit should not be condition precedent as this Court has already directed the respondent counsel to intimate the order. No costs. Consequently, the connected miscellaneous petition is closed. However it is made clear that the petitioner if does not possess the qualification and the 10th standard mark sheet on the date of his application, the same entails rejection of his candidature.

Sd/-

Deputy Registrar

// True Copy//

Sub Assistant Registrar

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To

The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Panthiyan Street,
Egmore , Chennai - 600 008

+lcc to Mr.A.Arulmozhi, Advocate SR.No.61364

W.P.No.23125 of 2018

RMP (19/09/2018)



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