

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 06.09.2018

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THE HONOURABLE MR.JUSTICE SATRUGHANA PUJAHARI

W.P.No.23277 of 2018
and
W.M.P.Nos.27165 & 27166 of 2018

C.Venda

....Petitioner

Vs

1. The Member Secretary,
Tamil Nadu Uniformed Service,
Recruitment Board,
Chennai - 600 008

2. Inspector General of Police / MS,
Tamil Nadu Uniformed Service,
Recruitment Board,
Chennai - 600 008

.Respondents

Prayer:-

Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records of the second respondent in C.No.R3/3392/2018 dated 28.08.2018 and quash the same and consequently to direct the respondents to allow the petitioner to participate in the rest of the selection process and to select and appoint her if she is qualified for the post.

For Petitioner : Mr.P.Paramasiva Doss

For Respondents : Mrs.Narmadha Sampath,

Additional Advocate General

Asst by Mrs.R.Janaki,

Additional Government Pleader

ORDER

It appears that the petitioner had submitted her 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. While submitting the application, the petitioner had given her friend's e-mail address. Though the petitioner is possessing Xth standard mark sheet but while the respondent sent an email to upload the said

certificate, she was not informed by her friend to upload the certificate and the same was not uploaded. The petitioner came to know that her name was not included in the Provisional Selection List because of not uploading the above certificate. Hence, the petitioner has now come out with a case that due to mistake of her friend she could not upload the said certificate and as such the respondents be directed to include her 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, she should have been considered and called for to participate in the rest of the selection process. 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 respondents, submits that since the petitioner having not uploaded the necessary certificate, she cannot be heard of saying that her non-inclusion in the provisionally selection list was illegal and arbitrary and as such, she cannot be considered and hence, the writ petition being devoid of merit, she 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 respondents have 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 her 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 respondents, the same be communicated to the respondents that this Court has allowed her 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 respondents, 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 respondents' counsel to intimate the order. No costs. Consequently, the connected miscellaneous petitions are 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 her application, the same entails rejection of her candidature.

Sd/-

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Assistant Registrar(CS ix)

//True Copy//

Sub Assistant Registrar

To

1. The Member Secretary,
Tamil Nadu Uniformed Service,
Recruitment Board,
Chennai - 600 008

2. Inspector General of Police / MS,
Tamil Nadu Uniformed Service,
Recruitment Board,
Chennai - 600 008

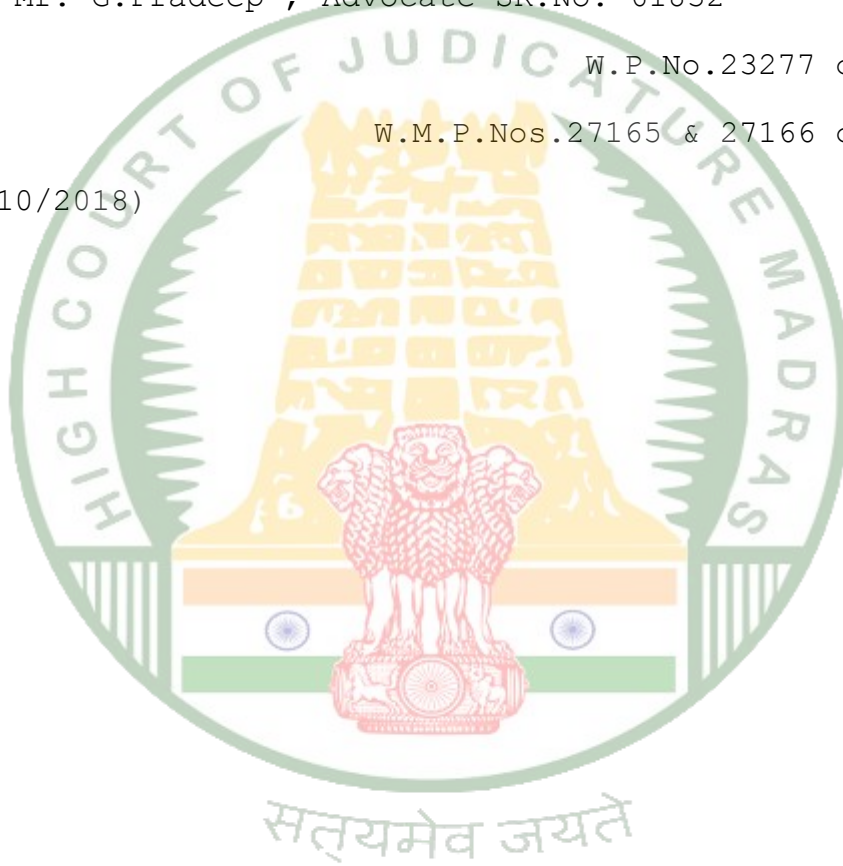
+1cc to Mr. G.Pradeep , Advocate SR.No. 61832

W.P.No.23277 of 2018

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ASK(03/10/2018)



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