

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.07.2018

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THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P. No.16568 of 2013

and

MP No.1 of 2013

R. Mathiazhagan ... Petitioner

versus

1. The State of Tamil Nadu,  
Rep. by Secretary to the Government,  
Home Department, Fort St. George,  
Chennai - 600 009.
2. Tamil Nadu Police Housing Corporation Ltd.,  
Rep. by its Chairman,  
No.132, E.V.R.Salai, Kilpaukkam,  
Chennai - 600 010.
3. The General Manager,  
(Finance and Administration)  
Tamil Nadu Police Housing Corporation Ltd.,  
No.132, E.V.R. Salai,  
Kilpaukkam,  
Chennai - 600 010. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue writ of mandamus directing the respondents to conduct an interview and select the petitioner to the post of Assistant Engineer in Tamil Nadu Police Housing Corporation Ltd. by providing age relaxation under the category of S.C. (A) or handicapped in terms of the call letter made in Na.Ka. No.A1/2078/2009 UPO, dated 08.05.2013 issued by the 3rd respondent.

For Petitioner : Mr.G. Ethirajulu

For Respondents : Mr.M.Elumalai

Government Advocate for R1

Mr.V.Jayaprakash Naraynan

for RR2 to 3

## O R D E R

The relief sought for in this writ petition is for a direction to direct the respondents to conduct an interview and select the petitioner to the post of Assistant Engineer in Tamil Nadu Police Housing Corporation Limited, by providing age relaxation under the category of SC (Arunathathiar) or handicapped in terms of the call letter in Na.Ka. No.No.A1/2078/2009 UPO, dated 08.05.2013 issued by the 3<sup>rd</sup> respondent.

2. The learned counsel appearing on behalf of the writ petitioner made a representation that the writ petitioner is a differently abled person and the disability of the petitioner has been assessed as 75%. Even, he is not in a position to move independently without the support of a helper. Thus, some consideration is to be shown, considering the physical condition and the nature of the disability to the writ petitioner.

3. The learned counsel for the petitioner further contended that the name of the writ petitioner had been sponsored through District Employment Exchange for selection to the post of Assistant Engineer and the quota fixed for the differently abled person had not been properly stipulated, nor informed to the petitioner at the time of participating in the written examination and the interview. Thus, the case of the writ petitioner deserves to be considered in all respects.

4. The learned Government Advocate appearing on behalf of the respondent opposed the contentions by stating that the writ petitioner even at the time of participating in the selection has completed 49 years of age. Now, the petitioner is aged about 54 years. Undoubtedly, the name of the writ petitioner was sponsored by the employment exchange for recruitment to the post of Assistant Engineer in Tamil Nadu Police Housing Corporation Limited.

5. The petitioner was called upon to attend the written test held on 23.05.2013. Even in the call letter, the instructions are provided to the candidates stating that those, who are selected in the written test will be required to attend the interview scheduled on 24.05.2013. Thus, it was made clear by the appointing authorities that the candidates, who passed in the written test alone is eligible to participate in the interview held on 24.05.2013. The result of the written test was published by the respondents in the notice board and the writ petitioner was not successful in the written examination. Only 14 persons, who have successfully passed in the written examination were called upon to attend the interview and thereafter, the persons were selected. In respect of the rule

of reservation, it is clarified by the respondents, that the rule of reservation will apply to the candidates, who have passed the written test, which is fixed as a requirement for interview and for selection.

6. In other words, it is stated, that passing of written test alone will make a candidate eligible to attend the interview. Thus, the writ petitioner was not eligible even to participate in the interview.

7. This Court is of an opinion that all the public appointments are to be made only in accordance with the recruitment rules in force. The authorities competent are bound to follow the rules in force scrupulously and without any deviation. Equal opportunity in public employment is a constitutional mandate. The rule of reservation as contemplated under the statutes and rules have to be followed by the authorities at the time of undertaking the process of selection. In the present writ petition on hand, the writ petitioner was not successful in the written examination and further, he was over aged even at the time of participating in the selection process. This apart, the writ petitioner has not established any malpractice or corrupt activities in the process of selection. In the absence of any such allegation which is to be substantiated, this Court will not be in a position to interfere with the process of selection.

8. This Court is of the strong opinion that misplaced sympathy or leniency can never be a point for providing a public employment. In our country, more specifically in this population, if such misplaced sympathy or leniency is adopted for the purpose of granting the relief of appointment, then the spirit of the equality clause enshrined in the Constitution will not only be diluted, but the constitutional rights of all other eligible candidates including the differently abled candidates will be affected. Thus, all eligible candidates have the constitutional right to participate in the process of selection, in accordance with the procedures contemplated and as per the rules in force through open competitive process. Thus, leniency can never be a point for consideration especially in the matter of providing public appointment even to the differently abled candidates, who are all large in number in our great nation. This being the view taken by this Court, the writ petitioner has not established any permissible grounds for the purpose of considering the grounds raised in this writ petition.

9. Accordingly the writ petition stands dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. The State of Tamil Nadu,  
Rep. by Secretary to the Government,  
Home Department, Fort St. George,  
Chennai - 600 009.
2. The Chairman  
Tamil Nadu Police Housing Corporation Ltd.,  
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3. The General Manager,  
(Finance and Administration)  
Tamil Nadu Police Housing Corporation Ltd.,  
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Kilpaukkam,  
Chennai - 600 010.

+1cc to Mr.V.JayaPrakash, Advocate, S.R.No.42649

W.P. No.16568 of 2013

(CO)  
GSP(18/07/2018)

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