

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2018

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.29077 of 2010 and
M.P.No.1 of 2010

S.Gopinath

... Petitioner

Vs.

1.The Chairman/Director General of Police,
T.N.Uniformed Services Recruitment Board,
Anna Salai, Chennai-2.

2.The Director General of Police,
Mylapore, Chennai-4.

3.The State of Tamil Nadu,
rep. by Secretary to Government,
Home (Police II) Department,
Fort St. George, Chennai-9.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Declaration, declaring that the non-selection of the petitioner to the post of Sub-Inspector of Police (Men) under the departmental quota (20%) under ST Community Category for the year 2010 is null and void and further direct the respondents to select and appoint the petitioner under the ST Community Category and grant him all consequential service and monetary benefits.

For Petitioner : Mr.K.Venkataramani, SC for
Mr.M.Muthappan

For Respondents : Mr.T.M.Pappiah,
Special Government Pleader

O R D E R

Heard Mr.K.Venkataramani, learned senior counsel for the petitioner and Mr.T.M.Pappiah, learned Special Government Pleader appearing for the respondents.

2.The petitioner has approached this Court, seeking the following relief:-

"To issue a Writ of Declaration, declaring that the non-selection of the petitioner to the post of Sub-Inspector of Police (Men) under the departmental quota (20%) under ST Community Category for the year 2010 is null and void and further direct the respondents to select and appoint the petitioner under the ST Community Category and grant him all consequential service and monetary benefits."

3. The case of the petitioner is as follows:-

The petitioner was a Police Constable serving in the Police Department. He was originally selected as Grade-II Police Constable, selected by the first respondent - Board and was appointed on 15.05.2000. Thereafter, he was upgraded as Police Constable Grade-I. The first respondent issued an advertisement for recruitment to the post of Sub-Inspector (Men) under the direct recruitment quota for the year 2010. The direct recruitment includes 20% departmental candidates from among the serving police personnel. The total vacancies which were notified were 1063, excluding back log vacancies. Different quota has been fixed for various categories on the basis of communal roster. As regards the ST Community is concerned, 1% was reserved and the petitioner belongs to ST Community.

4. On completion of the selection, the petitioner found that he was not selected as Sub-Inspector under departmental quota against ST Community, in spite of his securing 58.25 marks. According to the petitioner, there were 11 vacancies reserved for ST Community and if only the first respondent properly calculated the vacancies, the petitioner would have been accommodated against the ST vacancy and promoted as Sub-Inspector of Police. According to the petitioner, the first respondent had selected only nine candidates as against 11 vacancies. Therefore, the petitioner has approached this Court declaring his non-selection to the post of Sub-Inspector of Police (Men) under departmental quota against ST vacancy as null and void.

5. Upon notice, learned Special Government Pleader appearing for the respondents, entered appearance and filed a counter affidavit. In the counter affidavit, the respondents have clearly stated that in the subject selection, the petitioner could not be selected, since he had secured only 58.25 marks and the cut off marks prescribed for ST Community was fixed at 59.75 marks. According to the respondents, under

the departmental quota, only one ST vacancy was notified for men and that vacancy was filled up by the candidate who secured more than the cut off marks. Therefore, the petitioner cannot have any legitimate grievances as against his non-selection.

6. The respondents have clearly stated that the break up of vacancies for various categories which came under departmental quota and as could be seen in the tabular column incorporated in paragraph 14 of the counter affidavit, the vacancy, which was notified for men under departmental quota for ST category was only one and that vacancy was filled up by a person belonging to ST category who had secured more than the cut off marks. The petitioner having secured less than the cut off marks for the ST category, cannot claim for being selected and appointed as Sub-Inspector of Police.

7. In view of the clear statement made in the counter affidavit and which statement has not been disputed by the petitioner, the non selection of the petitioner cannot be faulted at all. on behalf of the respondents, the above position has been stated in the counter affidavit. The operative portion of the averments as contained in the counter affidavit, resisting the claim of the petitioner is reproduced hereunder:

"8.....Applying 1% reservation earmarked for ST for each of these categories the reserved posts for ST under these different classifications are as follows:

Category	Open		Department	
	Men	Women	Men	Women
Taluk	5	2	1	0
AR	1	0	0	0
TSP	1	0	0	0
Total	7	2	1	0

Therefore, the total vacancies as per the above classification are 10. Adding 1 ST women departmental carry forward vacancy, the total reserved for St works out to 11 vacancies.

9.It is submitted that as shown above, the vacancy for ST among men (Department Quota) is only one. Among the candidates from the ST community who appeared under department quota, the cut off mark was 59.75. The petitioner had secured only 58.25 (53 in Written Test and 5.5 in viva-voce). Since there was only one

vacancy and there was another candidate with higher marks the petitioner was not selected."

8. From the above, it is very clear that the respondents have come out with proper explanation as to how the petitioner could not be selected. Therefore, this Court is of the considered view that the claim of the petitioner is devoid of merits and substance and therefore, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

-sd/-

Assistant Registrar

True Copy

Sub-Assistant Registrar

abr/gsk

To

- 1.The Chairman/Director General of Police,
T.N.Uniformed Services Recruitment Board,
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- 2.The Director General of Police,
Mylapore, Chennai-4.
- 3.The Secretary to Government,
The State of Tamil Nadu,
Home (Police II) Department,
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+1 C.C. to Mr.M.Muthappan Advocate SR.NO. 15862

VS 22.03.2018

W.P.No.29077 of 2010

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