

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27/11/2018

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

Writ Appeal No.2510 of 2018

1. The Director General of Police
Office of the Director General of Police
Old Commissioner of Police Office Compound
Pantheon Road
Egmore, Chennai 600 008.
 2. The Member Secretary
Tamil Nadu Uniformed Services Recruitment Board
Old Commissioner of Police
Office Compound
Pantheon Road
Egmore, Chennai 600 008. Appellants
- Vs
- M. Mohan Respondent

Appeal filed under Clause 15 of Letters Patent against the order dated 3/11/2017 made in W.P.No.26853 of 2017, petition praying to issue a writ of Mandamus to directing the respondents 1 & 2 herein to consider his representation dated 12.09.2017 & reminder dated 02.10.2017 pertaining to the selection of candidates for any one of the posts of Common Recruitment of Gr II Police Constables, Gr II Jail Warders & Firemen in Tamil Nadu Uniformed Services- 2017 under Sports Quota to add the special marks of 3 with the marks of 67, the petitioner already obtained in written and physical tests to have an aggregate of 70 marks which is far more sufficient for the selection of the post in the above writ petition.

For appellants Mrs.Narmada Sampath
Additional Advocate General
assisted by
Mr.P.S.Sivashanmuga Sundaram
Special Government Pleader

For respondent No appearance.

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J U D G M E N T

(Judgment of the Court was made by S.MANIKUMAR, J)

The respondent herein, has sought for a mandamus, directing the appellants, to consider his representation, dated 12/9/2017 and reminder, dated 2/10/2017, pertaining to the selection of candidates, to the posts of Common Recruitment of Grade - II Police Constables, Grade II Jail Warders and Firemen, in Tamil Nadu Uniformed Services, 2017, under Sports Quota, to add special marks of 3 with the marks of 67 obtained by him, in the written and physical tests, to have an aggregate marks, which would be sufficient, for the above said post.

2. Material on record discloses that the respondent did not produce the necessary certificates, for applying under the Sports Quota, though he had shaded the boxes depicting that he had already enclosed the necessary certificates.

3. After hearing the learned counsel for both parties, writ Court permitted the respondent to produce the original 'C' certificate in NCC and the certificates obtained in Inter State Sports Events. Thereafter, on 3/11/2017, in W.P.No.26853 of 2017, passed the following order:-

"4. This Court is unable to accept the above said contention. From the application submitted by the petitioner, it is seen that he has shaded all the boxes to depict that he has enclosed all the necessary certificates for applying under the sports quota. When the matter was taken up on 20/10/2017, this Court directed the counsel for the petitioner to produce the original 'C' certificate in NCC and also the certificate obtained in Inter State Sports Events. Pursuant to this order, learned counsel for the petitioner has also produced those two original certificates, therefore, the claim of the respondents that since he did not produce the original certificate at the time of Certificate Verification, he cannot be awarded 3 marks under sports quota cannot be sustained.

5. Thus, in view of the above, the respondents are directed to award 3 marks (2 marks for obtaining 'C' certificate in NCC and 1 mark for participating in Inter State Sports Events) under sports quota to the petitioner. If these 3 marks are added, the petitioner

would naturally get 70 marks in aggregate, which is much above the cut-off marks of 67.5 fixed for MBC category. Therefore, the respondents are directed to select the petitioner to the said post subject to the verification of his antecedents. With these directions, the writ petition is disposed of."

4. Being aggrieved, instant appeal is filed, on the following grounds:-

(i). Instant appeal pertains to the Certificate Verification. Rules and procedures followed in the Certificate Verification are as follows:-

As per para 30 of the information brochure, the candidates should enclose copies of all the relevant certificates along with his application, at the time of submission of his application. During the certificate verification, the enclosed copies of the certificates by the candidate in his application has to be produced, in original, before the Sub-Committee for verification. Further any fresh certificates produced by the candidate which he has not enclosed along with his application will not be considered for certificate verification.

(ii). Writ Court, ought to have considered the fact that though the respondent had enclosed the copy of PSTM certificate, NCC and Sports Certificate along with his application, at the time of Certificate Verification, he has failed to produce the originals of the above said certificate, before the Sub-Committee, Dharmapuri, during Certificate Verification. Hence the name of the petitioner was not included in the PSTM/NCC/Sports list and rightly not awarded any special marks.

(iii). The disqualified candidate cannot be allowed to participate, in further selection process, as it would affect the other meritorious candidates. Apart from this, morale of the other eligible contestants would be shattered. Hence the writ petition ought to have been dismissed at the threshold on merits.

5. When the writ appeal came up for admission on 16/11/2018, we passed the following orders:-

"Though Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader, appearing for the appellants may be right in contending that

respondent who has not produced the necessary certificate, while applying to the post of Police Constable Grade-II, was rightly not included in the list of eligible candidates, in the case on hand, the writ Court while exercising its discretion, has directed the respondent to produce the original 'C' Certificate in NCC and also the certificate obtained in Inter State Sports Events and found that the respondent is entitled to be awarded 3 marks (2 marks for obtaining 'C' Certificate in NCC and 1 mark for participating in Inter State Sports Events) under sports quota and further observed that if these three marks are added, the respondent would be entitled to be included in the list of selected candidates and issued directions in paragraph No.5 of the order made in W.P.No.26853 of 2017 dated 03.11.2017, which is extracted hereunder.

"5. Thus, in view of the above, the respondents are directed to award 3 marks (2 marks for obtaining 'C' Certificate in NCC and 1 mark for participating in Inter State Sports Events) under sports quota to the petitioner. If these 3 marks are added, the petitioner would naturally get 70 marks in aggregate, which is much above the cut-off marks of 67.5 fixed for MBC category. Therefore, the respondents are directed to select the petitioner to the said post subject to the verification of his antecedents. With these directions the writ petition is disposed of. No Costs. WMP No.28589 of 2017 is closed."

2. Though, writ appeal is filed on various grounds, question to be considered is, as to whether discretion exercised by the writ Court is arbitrary.

3. Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader submitted that Direct Recruitment for the post of Police Constable Grade-II, conducted in the year 2017, is over. In 2018 also there was a Direct Recruitment to the post of Police Constable Grade-II. He further submitted that he would ascertain from the department, as to whether there is any vacancy in the post of Police Constable Grade-II.

4. Post on 20.11.2018, in the motion list."

6. Subsequently, on 26/11/2018, Mr.P.S.Sivashanmuga Sundaram, learned Special Government Pleader submitted that for the direct recruits and Police Constables Grade II, 2018, training is proposed to be conducted from the month of December 2018. Considering the material on record, we are of the view that exercise of discretion by the writ Court cannot be said to be manifestly erroneous, warranting intervention.

7. After perusing the certificates, respondent has been found to have been qualified in the matter of selection, to the post of Grade II Police Constable. Respondent can also be included, as one of the trainees, along with 2018 batch of Grade II Police Constable. We are not inclined to interfere with the decision of the writ Court made in W.P.No.26853 of 2017, dated 3/11/2017. Appellants are directed to give training to the respondent, as indicated above. It is made clear that this order cannot be cited a precedent.

8. With the above direction, Writ Appeal is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

mvs.

Sub Assistant Registrar

To

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+1cc to the Government Pleader, S.R.No.81426

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PPA (CO)
SSM(08/01/2019)