

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2018

CORAM:

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.31674 of 2018
and
W.M.P.No.36917 of 2018

K.Uthayakumar

... Petitioner

Vs.

1. The Chairman,
Tamil Nadu Uniformed Services
Recruitment Board,
No.807 P.D.V. Sengalvarayar Maligai,
Anna Salai,
Chennai - 600 002.
2. The Director General of Police,
O/o. The Director General of Police,
Kamarajar Salai,
Chennai - 600 004.
3. The Director General of Police/Director,
Fire and Rescue Services,
No.17, Rukmani Lakshmipathy Road,
Egmore, Chennai - 600 008.
4. The Additional Director General of Police (Prison)
and Inspector General of Prisons,
Whannels Road,
Egmore,
Chennai - 600 008.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, to direct the respondents to consider the petitioner to the post of Jail Warden or Fireman based on his Marks, Qualification and preference in the common recruitment notification 2017-2018 issued by the respondent No.1 by considering the representation dated 17.11.2018, within the time stipulated by this Court.

For Petitioner : Mr.A.Raja Mohamed
For Respondents 1&2 : Mr.V.Kadhirvelu,
Additional Govt. Pleader
For Respondents 3&4 : A.N.Thambidurai-AGP

ORDER

The petitioner applied for the post of Grade-II Police Constables/Jail Wardens/Fireman in pursuance to the notification issued during the year 2017-2018. The petitioner also attended the written examination, which was held on 11.03.2018 and obtained 65 marks out of 80 marks and he also participated in the physical endurance test, in which, he secured 12 marks out of 15 marks and also obtained 0.5 marks for NSS. The petitioner was also selected in the medical test. However, on 06.11.2018, the Superintendent of Police, Tirunelveli, sent a communication to the petitioner stating that in view of the criminal case pending against him in Cr.No.53 of 2013, his name could not be considered for the post of Police Constable based on the Rule 13 (b) and (3) of Tamil Nadu Police Subordinate Service Rules. Aggrieved over the same, he filed a petition in CrI.O.P.(MD) No.19669 of 2015 before this Court and this Court, by an order dated 05.11.2015, quashed the criminal case.

1.1. The petitioner relied upon a decision of this Court in W.P.(MD) No.19895 of 2018, wherein, it was held that pending criminal case is a bar only for the post of Police Constable and not for the post of Jail Warden and Firemen and further the Fire Superlative Service Rules does not prevent any person to provide appointment on the ground of pendency of criminal case. Relying upon the said decision, the petitioner made a representation dated 17.11.2018 to the respondents to consider his name for the post of Jail Warden/Fireman, on which, no order has been passed. Hence, this writ petition has been filed.

2. While reiterating the contentions as raised in the ground of petition, the learned counsel for the petitioner also relied upon a decision of this Court in W.P.No.12895 of 2018, where, the petitioner has secured higher marks and a criminal case was pending against him, which was quashed and this Court directed the concerned authority/respondent to pass necessary orders, giving necessary appointment orders to pass necessary orders, giving necessary appointment orders to the petitioner as Fireman.

2.1. The learned counsel for the petitioner also relied upon another decision of this Court in W.A.No.472 of 2013 (V.Jayavarthanam vs. The Member Secretary, Tamil Nadu Uniformed Services Recruitment Board, Chennai and others), wherein, this

Court, by relying upon a decision of the Hon'ble Supreme Court reported in 2013 (7) SCC 685 (Commissioner of Police, New Delhi and another vs. Mehar Singh), in which, it is held as follows:

"A person wishing to join the police force must be a person of utmost rectitude; he must have impeccable character and integrity; a person having criminal antecedents will not fit in this category; even if he is acquitted or discharged in the criminal case, that acquittal or discharge order will have to be examined to see whether he has been completely exonerated in the case because even a possibility of his taking to the life of crimes poses a threat to the discipline of the police force, held that the petitioner had already proved himself by his performance in the written test as well as oral tests and considering the fact that the petitioner got provisionally selected to the post of Grade-II Police Constable, directed the respondent to issue appointment order to the petitioner/appellant."

2.2. Therefore, it is submitted by the learned counsel for the petitioner that it would suffice if a direction is issued to the respondents to consider the petitioner's representation in terms of the orders passed in W.P.No.12895 of 2018 and W.A.No.472 of 2018.

3. Heard the learned Special Government Pleader appearing for the respondents.

4. Considering the facts and circumstances of the case and also in view of the limited relief sought for, this Court is of the view that it would suffice to direct the respondents to consider the representation filed by the petitioner on 17.11.2018 in terms of the orders passed in W.P.No.12895 of 2018 and W.A.No.472 of 2018 and to pass orders on the same within a particular time frame.

5. Accordingly, this writ petition is disposed of directing the respondents to consider the representation filed by the petitioner on 17.11.2018 in terms of the orders passed in W.P.No.12895 of 2018 and W.A.No.472 of 2018 and to pass orders thereon, in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman,
Tamil Nadu Uniformed Services
Recruitment Board,
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4. The Additional Director General of Police (Prison)
and Inspector General of Prisons,
Whannels Road, Egmore,
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+1cc to Mr.A.Raja Mohamed, Advocate, S.R.No.83105 &83622

+1cc to the Government Pleader, S.R.No.82958

W.P.No.31674 of 2018

GSP(09/01/2019)

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