



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.03.2018

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE Mrs.JUSTICE R.THARANI

Writ Petition (MD).No.5122 of 2018
and
W.M.P.(MD)Nos.5097 and 5098 of 2017

T.Muthuraja

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by its Principal Secretary to Government, Secretary,
Personnel and Administration Reforms(S) Department,
Fort St. George, Chennai-9.

2.The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road, V.O.C. Nagar,
Chennai-600003.

3.The Commanding Officer,
4, Medium Regiment (S.P.),
PIN-925704
C/056 APO.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned clause (c) in part -II -General Rules, in Rule 52 in the impugned G.O.Ms.No.89 Personnel and Administration Reforms (S) Department dated 12.08.2015 and the consequential impugned order passed by the second respondent in his memo No.4108/PSD-H2/2016 dated 04.12.2017 and quash the same and further direct the first respondent to recruit petitioner for the post of Junior Assistant Group IV Services/2015-2016 based on counselling held on 08.08.2017 by receiving the ex-serviceman discharging book

For Petitioner : Mr.D.Selvaraj

For Respondent No.1 : Mr.V.R.Shanmuganathan
Special Government Pleader

<https://hcservices.ecourts.gov.in/hcservices/> For Second Respondent : Mr.D.Sivaraman

ORDER

(Order of the Court was made by T.S.SIVAGNANAM, J)

Heard Mr.D.Selvaraj, learned counsel appearing for the petitioner, Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the first respondent and Mr.D.Sivaraman, learned counsel appearing for the second respondent.

2.This writ petition has been filed, challenging the Clause (c) of Part II of the General in Rule 52 in the impugned G.O.Ms.No.89 Personnel and Administration Reforms Department dated 12.08.2015 and for consequential direction to set aside the proceedings of the second respondent dated 04.12.2017. In our considered view, the ground raised by the petitioner do not establish as to how the said Rule in any way is ultra vires the Provision of the Act or for that matter any Constitutional Provision. Therefore, the relief sought for by the petitioner has to be rejected. The second aspect which has to be seen is as to whether the order passed by the second respondent/TNPSC on 4.12.2017, rejecting the petitioner candidature as the ex-serviceman candidate is just and proper. As per the notification issued by the TNPSC, which called for application for direct recruitment for the post of Junior Assistant Grade II Service, in the year 2015-2016, for a person to be eligible to be considered under the ex-serviceman category is that he should have been discharged prior to 13.09.2017. This stipulation of the notification cannot be questioned by the petitioner especially when the petitioner has submitted his application pursuant to the said notification and participated in the selection process. Therefore, the petitioner is estopped from challenging the cut off date stipulated by TNPSC. The petitioner was discharged from the defence service only on 30.11.2017, which is evident from the discharge order dated 22.08.2017. Therefore, as on the cut off date, viz., 13.09.2017, the petitioner continued to remain as a Defence Personnel serving in the Army and therefore, he cannot be considered under the ex-service man category for the said notification 2015-2016. However, the petitioner will be entitled to participate in the subsequent selection, which the TNPSC themselves have accepted in the Position Note dated 16.03.2018, which has been placed before this Court.

In the light of the above, the writ petition is dismissed with observation. Consequently, W.M.P.(MD)Nos.5097 and 5098 of 2017 are closed.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar



To

1. The Government of Tamil Nadu,
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2. The Secretary,
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Chennai-600003.

3. The Commanding Officer,
4, Medium Regiment (S.P.),
PIN-925704
C/056 APO.

+1cc to Special Government Pleader, SR.No. 56694

Writ Petition (MD).No.5122 of 2018

mrn

JM/KKR/SAR 2/19.04.2018/3P/5C