



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 09.01.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) No.20570 of 2017

&

WMP (MD) No.16859 of 2017

S.Vignesh

... Petitioner

Vs.

1. The State of Tamil Nadu,
rep. by its Secretary,
Home Department,
Secretariat, Chennai.
2. The Chairman,
Tamil Nadu Uniform Service Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore, Chennai - 08.
3. The Director General of Police,
Dr.Radhakrishnan Salai,
Chennai.
4. The Additional Director General of Police and
Inspector General of Prisons,
Whannels Road, Egmore,
Chennai - 8.
5. The Director,
Fire & Rescue Services,
Egmore, Chennai.

... Respondents

Prayer : This writ petition is filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the 2nd respondent to select the petitioner (Enrol No.2003876) for the post of Grade II Police Constable, Grade II Jail Warders and Fireman 2017 as per the marks obtained by the petitioner and thereby directing the 2nd respondent to include the petitioner's name and register number in selection provisional list of Grade II Police Constable, Grade II Jail Warders and Fireman - 2017.

For Petitioner : Mr.K.Baalasundharam
<https://hcservices.ecourts.gov.in/hcservices/>
For Respondents : Mr.B.Pugalendhi, AAG assist. By
Mr.A.K.Baskarapandian, Spl.G.P.

**ORDER**

The writ petitioner was a candidate, who applied in response to the notification issued by the second respondent for recruitment to the post of Grade II Police Constables/Grade II Jail Warders/Fireman for the year 2017.

2.The writ petitioner submitted his application dated 15.02.2017. He was issued with the hall ticket for participation in the selection process. The writ petitioner came out successful. He had scored 65 marks. The writ petitioner had studied in the Tamil Medium. Therefore, he is eligible to be considered under PSTM category. The writ petitioner had specifically indicated that he is entitled to be considered under priority category. He had also enclosed the certificate certifying that he belongs to PSTM category. The writ petitioner also belongs to backward class community. Even though he had secured more than cut off marks required for the post of TSP-PC//Jail Warder/Fireman, he was not considered. Therefore, the present writ petition came to be filed.

3.The prayer of the writ petition was opposed by the respondents principally on the ground that while filling up the application, he expressed his preference only for the post of AR-PC and that therefore even though he had secured 65 marks and it is above the cut off marks prescribed for the other posts, he was not considered.

4.The learned Additional Advocate General appearing for the respondents placed reliance on G.O.Ms.No.247, Home (Pol.VI) Department dated 03.03.2010, by which the following proviso had been added.

"In the said Special Rules, in rule 11, after the proviso, the following provisos shall be added, namely:-

"Provided further that the Tamil Nadu Uniformed Services Recruitment Board shall conduct a common recruitment to the posts of Police Constable (Men and Women), Jail Warders Grade II (Men and Women) in the Jail Subordinate Service by following the norms prescribed for recruitment of Police Constable (Men and Women). The candidates shall be required to give their first, second and third preference for the said three posts and the allotment of a candidate selected through the common recruitment among the above three posts shall be made taking into account his preference and depending on his rank and the availability of vacancies in the particular post and subject to the rule of reservation and communal



Provided also that, if any candidate opts for one post only, and if his turn is not reached for that post, he shall lose his chance, even though he is eligible as per merit list for the other two posts."

The learned Additional Advocate General also submitted that the aforesaid mandate also has been duly incorporated in the information brochure furnished by the applicants. In this view of the matter, no case has been made out for issuance of a writ of mandamus.

5.This Court anxiously considered the rival contentions. A look at the contents of the recruitment notification would reveal that clause 10 thereof deals with post preference. The applicants are mandated to rank their preferences while filling up the OMR applications forms. Clause 16 of the information brochure states that if column 16 in OMR form has not been properly filled up, the recruiting authority will ignore the preference indicated by him and go by the merits of the matter. Therefore, this Court will have to see if the writ petitioner had filled in column 16 properly. It is seen that column 16 contains 4 boxes. They pertain to AR-PC, TSP-PC, Jail Warder and Fireman. The writ petitioner had filled up the first box alone. The other boxes have been left blank.

6.This Court can visualise the situation of the applicant when he was filling up the said OMR form. The writ petitioner obviously wanted to rank AR-PC post as his first preference. As regards the ranking of other posts, he probably wanted to have second thoughts, but, without filling up the other boxes, the application form had been despatched by post. Therefore, this Court can only come to the conclusion that column 16 was not properly filled up. Therefore, the authority will have to ignore the preference indicated by him and issue an order of appointment based on his performance or the mark scored by him in the selection process. If the writ petitioner had put a negative mark like "X" in the other boxes, then and then alone, one can conclude that column 16 had been properly filled up. In this case, the first box alone had been filled up while the remaining three boxes have been left blank. Therefore, this Court has to direct the respondents to follow the mandate set out in the information brochure. The respondents have indicated in the information brochure that in the event of improper filling up of column 16, they will issue appointment orders taking into account the overall marks secured by the writ petitioner de hors the preference indicated by the applicant. This Court cannot lose sight of the fact that the writ petitioner belongs to backward community and that he belongs to PSTM (Tamil Medium) category.

7.The learned counsel for the writ petitioner also



passionately pleaded that the writ petitioner belongs to an economically poor section and that his entire life hinges on the favourable outcome of the impugned recruitment process. In this view of the matter, this Court directs the respondents to issue appropriate appointment orders in favour of the petitioner by taking into account the marks scored by him in the subject recruitment process, within a period of eight weeks from the date of receipt of a copy of this order.

8.This writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
State of Tamil Nadu,
Home Department,
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Whannels Road, Egmore, Chennai - 8.
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Egmore, Chennai.

+ 1 cc TO Mr.K.Baalasundharam , Advocate in SR No. 41793

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AE/SKN RSK/SAR2/08.02.2018/4P/7C

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