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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.01.2018

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P(MD)No.3766 of 2011

G.Ravichandrakumar ... Petitioner

Vs

The Tamil Nadu Public Service Commission,
Represented by its Deputy Secretary,
Government Estate,
Chennai. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of the respondent passed in Memo No.5631/PSC/D2/2005, dated 21.01.2011 and quash the same and consequently direct the respondent to permit the petitioner to participate in the selection to the post of Village Administrative Officer and to appoint him in the post of Village Administrative Officer with all monetary and attendant benefits.

For Petitioner :Mr.C.Jegannathan

For Respondent :Mr.K.K.Senthil

ORDER

The relief sought for in this writ petition is to quash the order of rejection dated 21.01.2011 and permit the petitioner to participate in the selection to the post of Village Administrative Officer and appoint him.

2.Heard, M/s.C.Jegannathan, learned counsel appearing for the petitioner and Mr.K.K.Senthil, learned counsel appearing for the respondent.

3. The learned counsel appearing on behalf of the petitioner made a submission that the respondent called for applications from the eligible candidates to fill up the post of Village Administrative Officer for the year, 2006. The petitioner claims that he is fully qualified to participate in the selection process

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and accordingly submitted his application under the category of Scheduled Caste and Ex-Servicemen. The petitioner belongs to Scheduled Caste category and joined in the Border Security Force on 08.02.1984 and retired from service on 31.08.2004, after completion of 20 years and 6 months of service in the Border Security Force. The petitioner served in the India – Pakistan Border for eight and a half years and in Bangladesh Border for about 6 years. Thus the petitioner claims that he is fully eligible to the concession granted to Ex-Servicemen category for appointment to the post of Village Administrative Officer.

4. The learned counsel appearing on behalf of the petitioner states that from the instructions issued by the respondent, in respect of the Ex-Serviceman quota, the counsel is of the opinion that any person of the Territorial Army has to be considered for the purpose of preference under the Ex-Serviceman quota. However, such a vague terminology cannot be accepted for the purpose of granting appointment to the post of Village Administrative Officer. Contrarily, the learned counsel for the respondent Tamil Nadu Public Service Commission, brought to the notice of the Court the Service Rules, 2016 which reads as follows:-

> "Military duty Means –
>
> (I) duty of any kind (including a course of training) involving subjection to Naval, Military or Air force Law; or
>
> (ii) duty (including a course of training), with a liability to serve overseas or in any operational area in Naval, Military or Air Force unit or formation or under Military, Munitions or Stores authorities or in factories;"

5. The learned counsel for the Tamilnadu Public Service Commission is of the opinion that the preference given by way of concession is applicable only to the person served and retired from Indian Army, Navy and Air Force.

6. This Court is of the opinion that the Ex-Serviceman quota itself is a concession provided and all the forces in the whole nation is not covered under the particular category. There are various kind of forces available in our nation and the rules provides concession only to the Ex-Servicemen served in any Military, Navy or Air Force. Therefore the Ex-Servicemen from other Forces are not entitled for the concession as per the Rules and instructions issued by the Tamil Nadu Public Service Commission in this regard.

7. Further this Court has to also consider the fact that there are various kinds of Forces available in this Country more specifically, CISF, CRPF, etc., and according to the Rules, such a concession cannot be extended to all the Forces and its restricted only to Military, Navy and Airforce Force. Such being the scope of the concession, this Court cannot enlarge and expand it by providing appointment to the petitioner who served in the Border Security Force. In this view of the matter, the claim for preference under

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Section Ex-Servicemen cannot be extended to the writ petitioner who has to participate in the selection in the open competition. The writ petition is devoid of merits and accordingly stands dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To
The Tamil Nadu Public Service Commission,
Represented by its Deputy Secretary,
Government Estate,
Chennai.

+1CC to M/s.Veera Associates, SR.No. 45646
+1CC to Mr.K.K.Senthil, Advocate, SR.No. 45416

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