

**HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

WRIT PETITION No.413 of 2016

ORDER: (Oral)

(Per Suresh Kumar Kait, J)

Vide the present petition, petitioners have challenged order dated 29.10.2015 passed in O.A.No.3214 of 2012 by the A.P. Administrative Tribunal, whereby the application filed by them under Section 19 of the Administrative Tribunals Act, 1985 has been dismissed.

2. Brief facts of the case are that the petitioners applied for the post of Home Guards in pursuance of the notification issued by the 3rd respondent and qualified in all the tests, 3.2 KM of run on 24.09.2011 and 100 Mts event, shot put and long jump held on 15.10.2011. They also passed in the written test held on 30.10.2011 and qualified for interview. Interviews were conducted from 21.12.2011 to 26.12.2011 and they appeared for interview on 22.12.2011 and provisionally selected as Home Guards. Initially, a notification was issued on 23.05.2011 inviting applications to fill up about 81 vacancies of Home Guards. The above tests were conducted under the close supervision of the Selection Committee Members, i.e., the Superintendent of Police, Additional Superintendent of Police, Commandant, Home Guards, Kurnool assisted by local senior Police Officers. Again, another notification was issued by the 3rd respondent on 13.09.2011 inviting applications to fill up 54 vacancies of Home Guards and the petitioners were again subjected to the tests. The petitioners passed the said tests, examination, appeared for interview and were provisionally selected by the Selection Committee. Again, the tests were conducted under the supervision of the respondents and the petitioners were finally selected. Later, on coming to know that the selections were cancelled, petitioners filed the aforesaid O.A.

3. The learned Tribunal dismissed the O.A., on the contention of the Government Pleader that the list of eligible candidates was not prepared in accordance with G.O.Ms.No.99 Home (Police-H) Department dated 15.04.1999 read with G.O.Ms.No.235 Home (Police-H) Department dated 12.08.1999 and Circular Memo vide Rc.No.225/HGs/Estt.I/2002 dated 06.05.2002 and there are no relevant documents found in the file, with regard to allocation of 80% of marks for events and other weightages are as per instructions issued by the Government vide Memo No.20862/Ser-III/A1/2007 Police Department dated 20.07.2007; hence, proper procedure was not adopted in preparing the select list. Accordingly, the learned Tribunal opined that the selection was not made as per the procedure prescribed by the Government as the Selection Committee did not award any marks for events which constitute 80% of the total marks for selection and selection was done based on interview for maximum of ten marks in violation of recruitment guidelines issued in Memo dated 20.07.2007; hence, the cancellation of selection cannot be held as illegal or arbitrary.

4. During the pendency of the present petition, respondents were directed to file an affidavit regarding the vacancy position in the Department. Pursuant thereto, it is stated by the respondents that there were 61 regular vacancies, the Commandant APSP XI Battalion, Bakarapet, Kadapa, had requested to provide 20 Home Guards to them on payment basis and the Prohibition and Excise Department had also requested to provide 54 HGs on payment basis; accordingly, the above selection of Home Guards was taken up to fill up the vacancies. It is further stated by the respondents that the borrowing Departments, i.e. Prohibition & Excise Department went back and stated that they are not in need of Home Guards; as the Home Guards who were working in Fire Service Department on payment basis returned to the Home Guards Unit, they were adjusted in the vacancies; remaining 11 vacancies were filled

up by compassionate appointments of family members of deceased under Category – C and as of now a total of 715 Home Guards are working in the District Home Guards Unit and no vacancies are available. It is further stated that after cancellation of selection of Home Guards on 04.04.2012, no further recruitment was taken up from 04.04.2012 and there is no need to carry forwards the vacancies.

5. The contention of the respondents has been disputed by the petitioners by filing reply wherein it is stated that about 60 general vacancies are available to be filled up by the respondents.

6. The fact remains that, after 04.04.2012, respondents have not taken up recruitment of Home Guards till date. Learned Government Pleader submits that if any vacancies are filled up in future, cases of the petitioners shall be considered as per procedure.

7. In view of the fact that after 04.04.2012, there is no recruitment of Home Guards, we find no illegality or perversity in the order under challenge.

8. Petition is accordingly dismissed. However, as and when vacancies arise in future, respondents are directed to consider the candidature of the petitioners, if they are otherwise eligible; however, without raising an objection as to their age and educational qualifications.

Miscellaneous petitions, if any pending in the petition, stand closed.

SURESH KUMAR KAIT, J

ABHINAND KUMAR SHAVILI, J

June 19, 2018
MRR