

HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
&
HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.36911 OF 2017

ORAL ORDER: (per Hon'ble Sri Justice Suresh Kumar Kait)

1. Vide the present petition, the petitioners have assailed the order dated 26th September, 2016 passed in O.A.No.892 of 2014 by the A.P. Administrative Tribunal, Hyderabad.

2. The petitioners filed an application under Section 19 of the Administrative Tribunals Act, 1985 praying the Tribunal to declare the entire action of respondents Nos.1 and 2 in not including the names of the petitioners in the selection list in pursuance of the notification of 2012 for the post of SCT-PC (Civil)(Men) in spite of securing more marks than that of the persons whose names were included in the provisional selection list dated 26.11.2013 from Serial No.12 onwards, as highly illegal, arbitrary, unjust, improper, violation of principles of natural justice, discriminatory and consequently, to direct the respondents to forthwith consider the cases of the petitioners for the post of SCT-PC (Civil) (Men) in pursuance of notification of 2012 by taking into consideration their marks secured during the process of selection.

3. It is pertinent to mention here that the learned Tribunal passed an order dated 12th February, 2014 directing the respondents to keep seven posts of Stipendiary Cadet Trainee Police Constables (Civil) (Men) Vacant. Thereafter, the learned Tribunal relying upon the order passed in O.A.No.63 of 2014 and 8743 of 2013, dated 24.9.2015, dismissed the petitions filed by the petitioners herein vide order dated 26th September, 2016.

4. We have heard the learned Counsel for the parties and perused the record.

5. The 2nd respondent had issued notification in Rc.No.837 R & T/Rect.2/2012, dated 31.12.2012 inviting applications from the eligible candidates, for filling up of various posts including 2113 posts to SCT-PCs (Civil) (Men) in addition to other posts mentioned therein.

6. The petitioners belong to ST (ABO) community. As per the aforesaid notification, the 2nd respondent had fixed the physical standards of the candidates who belonged to SC/ST as (a) height must not be less than 160 cms., (b) chest must not be less than 80 cm., round the chest on full inspiration with a minimum expansion of 3 cms. Accordingly, the petitioners made their applications for the post of SCT-PC (Civil) (Men) in pursuance of notification issued by the 2nd respondent. In the examinations conducted by the 2nd respondent, the 1st petitioner and the 2nd petitioner secured 73 marks each, the 3rd petitioner secured 78 marks and 4th petitioner secured 71 marks. However, not received the appointment letters. Thereafter, it came to knowledge of the petitioners that some candidates who got lesser marks were appointed for the aforesaid posts without following due process of law. Then, they made application under RTI Act to furnish information regarding the recruitment of PCs in pursuance of the above notification. Accordingly, the Additional Superintendent of Police (Administration and Public Information) furnished provisional selection list of PCs, whose names were included in the provisional selection list. As per the said list, number of persons, who secured lesser marks than the petitioners, were included in the said provisional selection list by ignoring the petitioners.

7. It is not in dispute that as per the provisional selection list dated 26.11.2013 of the SCT-PC (Civil)(Men) in respect of category ABO-ST, Serial No.12 onwards secured 71 and less marks, whereas the petitioners have secured more marks than Serial Nos.12 to 19 shown in the provisional selection list.

8. The details of the petitioners including the secured marks are given below:

S.No.	Name of the candidate	Reg.No.	Height (in cms)	Marks (Civil)
1	Vooyika Gopala Rao	600065	166.40	73
2	Kondagari Nagabhusana Rao	600002	160.80	73
3	N. Gandhi Raju	600016	162.70	78
4	P. Maheswara Rao	600081	162.30	71

But the 2nd respondent had considered the persons, who secured less marks and who have less height than the petitioners. The particulars of the said persons are given below:

S.No.	Name of the Candidate	Height (in cms)	Marks
2349	Toyaka Ganesh	160.50	74
2828	Kadkaka Giri Prasad	160.50	71
3765	Arika Ramesh	160.20	64
3425	Arika Jaya Shankar	162.40	67
2960	Mojuri Chandra Shekar	162.80	71
2319	Paila Murali Krishna	162.20	74
3172	Mandangi Naveen Kumar	162.20	70

9. In paragraph No.5 of the counter-affidavit filed before the learned Tribunal, the respondents stated that STs belonging to Scheduled Areas, who do not possess physical standards i.e., 167.6 cm., height and 86.3

cms., chest inspiration and 5 cm., chest expansion will be considered for ST/ST-ABO vacancies if and only if sufficient number of persons of the same category possessing above physical standards and qualified in written examination are not available to fill up all the vacancies. This is irrespective of marks obtained by the candidates with less than the above physical standards.

10. In paragraph No.6 of the counter-affidavit, it is stated that if sufficient number of candidates possessing above physical standards i.e., 167.6 cm., height and 86.3 cms., chest inspiration and 5 cm., chest expansion and qualify in written examination are available, then the question of considering the candidates possessing physical standards less than the above physical standards does not arise though they have secured more marks than the candidates possessing physical standards as stated above. But, aforementioned facts were nowhere stated in the notification dated 31.12.2012.

11. We have perused the notification in Rc.No.837 R & T/Rect.2/2012, dated 31.12.2012, whereby the head of Selection Process is mentioned as under:

“Selection process: If the candidates are male in respect of Post Code No.21 to 26, they should complete 5 kms., run within 25 minutes. For women: 2.5 kms should be completed within 16 minutes. Candidates who have passed this test only would be eligible for physical efficiency test (P.E.T). Particulars of P.E.T.: 100 mts., should be completed in 15 seconds in respect of the candidates for Post Code Nos.21 to 26, long jump 3.8 mts., short put (7.26 kgs), 5.6 mts. High Jump 1.20 mts, 800 mts., run in 170 seconds. These are only for general candidates. For women: 100 mts. run should be completed in 18 seconds. Long Jump 2.75 mts. should be jumped. Short put (4 kgs), 4.5 mts should be thrown.”

In the note attached to selection process, it is clarified that the candidates those who have been successful in P.E.T test only will be eligible for written test. It shows that P.E.T test is the eligibility criteria and the merit of the selection would be based on the marks secured in the written test.

12. It is specifically mentioned in notification dated 31.12.2012 that if the candidate belongs to general category the height should be 167.6 cm., chest 86.3 cms., and 5 cm., on expansion when inhaling is required. But if the candidates are SC/STs height should be 160 cms., chest should be 80 cms., and 3 cms., when inhaling the air. It is not the case of the respondents that the petitioners have not qualified the physical test as per notification dated 31.12.2012. It is fact that the petitioners appeared in the written examination after qualifying physical test.

13. It is not the case of the respondents that the petitioners do not fulfill the eligibility criteria of height which is 160 cms., and chest 80 cm., and that the petitioners have not secured more marks than the selected candidates. As we noted above, the petitioners herein have secured more marks than some of the candidates selected. It is not the case of the respondents that after selection process, the availability of candidates were less from the reserved category and then, they have relaxed the physical standard criteria. In the notification itself, the physical standards viz., height and chest were mentioned. All the petitioners have qualified the same and secured more marks than the selected candidates in the written examination. In such recruitment the physical fitness is eligible criteria and merit depends on the secured marks in the written test. However, in the present case, the respondents have reversed the situation and based on the physical fitness, they selected the candidates by ignoring the merit of the marks secured in the written examination.

14. The learned Tribunal has dismissed the application filed by the petitioners while relying upon O.As Nos.63/2014 and 8743/2013, which were dismissed vide order dated 24.9.2015. But, the fact remains that those O.As were filed by the General Category candidates, not by STs.

15. In view of the above discussion, we hereby set aside the order dated 26th September, 2016 passed in O.A.No.892 of 2014 by the A.P. Administrative Tribunal, Hyderabad.

16. Consequently, the Writ Petition is allowed. The respondents are directed to issue appointment letters to the petitioners with all consequential benefits based on the marks secured in examination, within a period of four weeks from the date of receipt of a copy of this order. No costs. Miscellaneous petitions pending, if any, shall stand closed.



JUSTICE SURESH KUMAR KAIT

JUSTICE ABHINAND KUMAR SHAVILI

Dated: 23rd January, 2018.
Nn.

HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
&
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WRIT PETITION No.36911 OF 2017

(Oral order delivered by Hon'ble Sri Justice Suresh Kumar Kait)



23/01/2018

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