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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.11.2019

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THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR

W.P.No. 21441 of 2013
and M.P. No.1 of 2013

K. Krishnan

..Petitioner

Vs

The Director General of Police
and Chairman,
Special Bank Selection Committee,
Chennai-4.

.. Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondent to provide Bassdram/Sidedram post as per the respondent call date on 19.04.2008 in reference no. P1/9405/2008 held on 05.05.2008 and select the petitioner in the available vacancy and grant such other relief.

For Petitioner : M/s. C.Rajan

For Respondents : Mrs. K. Bhuvaneswari, AGP

O R D E R

The prayer sought for in the Writ Petition is to direct the respondent to provide Bassdram/Sidedram post as per the respondent call date on 19.04.2008 in reference no. P1/9405/2008 held on 05.05.2008 and select the petitioner in the available vacancy and grant such other relief.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing on behalf of the respondents and perused the materials available record.



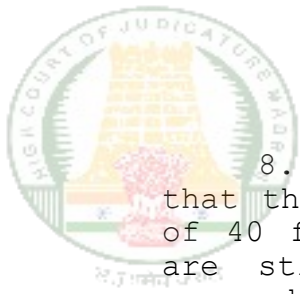
3. The learned counsel appearing for the petitioner has submitted that the petitioner had applied for the post of Musical Instrument player in the Armed Reserve Police Force on 24.12.2007 as per the notification issued by the respondent. The petitioner was called for the interview on 05.05.2008 based on the communication from the respondent and participated in the interview and thereafter he has not received any communication from the respondent. The petitioner sought for details under RTI Act on 27.03.2012 and he obtained details by letter in Na.Ka. No. B5/8209/2012 dated 12.12.2012, wherein it has been mentioned that no records pertaining to his participation in the interview held on 05.05.2008 and connected records are available in their office. The information provided by the respondents discloses that there are totally 737 posts, for which 278 persons have been selected and are in employment, remaining 479 posts are vacant and yet to be filled up. The petitioner belongs to the Arunthathiyar Community, which is Class 'B' of Scheduled Caste Community.

4. The learned counsel for the petitioner further submitted that the Tamil Nadu Subordinate Service Rules 22 (a) have been amended and came into force with effect from 29.04.2009. Therefore the petitioner is entitled to be selected for the post in remaining vacancies.

5. On the other hand, the learned Additional Government Pleader submitted that out of 737 vacant posts of Band men, 278 persons were selected and are in employment and balance mentioned as 479 posts instead of 459 posts remain vacant. The said mistake was only typographical error and the amended rule 22(a) of Tamil Nadu State and Subordinate Services for providing reservation as 36 out of 200 for the Scheduled Castes includes six offered to Arunthathiyarr on preferential basis amongst the Scheduled Castes with effect from 29.04.2009.

6. The learned Additional Government Pleader further submitted that the selection was conducted by the respondent in the year 2008 and therefore the aforesaid amendment act came into effect only after the notification issued by the respondent, therefore, the contention of the petitioner cannot be accepted.

7. The learned Government Advocate further submitted that the petitioner has filed the writ petition for writ of mandamus, hence such prayer cannot be maintainable unless the petitioner challenge the selection process or notification of the respondent.



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8. The learned counsel for the petitioner further submitted that though the petitioner has not secured minimum cut of marks of 40 fixed by the respondent, considering the vacancies which are still remain vacant in the respondent department, the respondent shall provide employment to the petitioner, in view of the amendment of rules.

9. The said contention of the petitioner cannot be accepted for the reasons that the respondent issued the notification for filling up posts of Bass dram/Side dram and the petitioner has not secured minimum marks of 40 fixed by the respondent and all the candidates who have secured minimum marks were selected for the said post. With regard to the contention made by the petitioner citing amendment of Rules for providing reservation, it is clear from the records that the said amendment came into effect only after the issuance of notification.

10. Considering all these facts and also the fact that the petitioner has not challenged the notification or any other proceedings issued by the respondent department, the prayer of the writ petitioner cannot be considered and the same is liable to be rejected.

11. In view of the above, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To
The Director General of Police
and Chairman,
Special Bank Selection Committee,
Chennai-4.

+lcc to M/s. C.Rajan, Advocate SR.97012
+lcc to the Government Pleader SR.97626

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AD(CO)
CB(13/01/2020)