

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 07-03-2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.23069, 23070 and 21480 of 2018
And
W.M.P.Nos.25230 and 25231 of 2018

V.G.P.Jaya Vignesh Kumar .. Petitioner in WP 23069/18
S.Suriya .. Petitioner in WP 23070/18
M.Arun Raja .. Petitioner in WP 21480/18

- Vs. -

- 1.The Secretary to Government,
Home (Police III) Department,
Fort St. George,
Chennai-9.
- 2.The Director General of Police,
Tamil Nadu,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai-4.
- 3.The Member Secretary,
T.N. Uniformed Services Recruitment Board,
Old Commissioner's Office Complex,
Montieth Road,
Egmore,
Chennai-8. ..Respondents in WPs 23069&23070/18

- 1.The Director General of Police,
Tamil Nadu,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai-4.
- 2.The Chairman-cum-Director General of Police,
TNUSRB, Old Commissioner of Police,
Office Campus,
Pantheon Road,
Egmore,
Chennai-600 008. .. Respondents in WP 21480/18

WP Nos.23069 and 23070 of 2018 are filed under Article 226 of the Constitution of India praying to issue Writs of Mandamus, directing the respondents to publish the cut off marks for the

wards quota in respect of selection made for common recruitment to the post of Grade II PC (Men and Women), Grade II Jail Warder (Men and Women) and Fireman for the year 2017-2018.

WP No.21480 of 2018 is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to include the name of the petitioner for appropriate post under 'wards quota' in the on-going selection for the post of Grade II Police Constables/Firemen/Jail Wardens for the year 2017-2018 as advertised in Clause-VII B of the Advertisement No.217 issued by the second respondent.

For Petitioner in WPs 23069
& 23070/18 : Mr.K.Venkata Ramani,
Senior Counsel for
Mr.M.Muthappan.

For Petitioner in WP 21480
of 2018 : Mr.K.Ravi Anantha
Padmanaban.

For R-1 & R-2 in WPs 23069
&23070/18 and R-1
in WP 21480/18 : Mr.A.N.Thambidurai,
Special Government Pleader.

For R-3 in WPs 23069&
23070/18 and R-2 in
21480/18 : Mr.V.Kathirvelu
Special Government Pleader.

C O M M O N O R D E R

The Hon'ble Division Bench of this Court passed an order on 13.2.2018 in WA (MD) No.1241 of 2017 holding that the reservation for wards/dependents of serving/retired police personnel and serving Ministerial staff of the Police Department is unconstitutional.

2. Special Leave Petition in SLP (Civil) No.16299 of 2018 was filed before the Hon'ble Supreme Court of India and the Hon'ble Supreme Court directed this Court to clarify paragraph-14 of the judgment passed in WA (MD) No.1241 of 2017 dated 13.2.2018. Accordingly, a Review Application was also filed by the parties in Review Application (MD) No.192 of 2018 in WA (MD) No.1241 of 2017 and this Court passed an order on 30.1.2019 in Review Application (MD) No.192 of 2018 and the relevant paragraphs 16 to 27 are extracted as under:-

"16. This being the principles to be followed, we are of the considered opinion that providing of 10% quota as we have concluded in our judgment is neither in accord with law nor in consonance with the constitutional principles and the decisions

of the Apex Court.

17. The Status Report filed on behalf of the 2nd respondent states that in combined common recruitment process for the post of Grade-II Police Constable, Grade-II Jail Warder and Firemen for the year 2017, as per the vacancy positions furnished by the Police, Prison and Fire & Rescue Service Departments, the Notification was published in the dailies on 23.01.2017 for conducting Common Recruitment for the posts of 15,664 Grade-II Police Constable, Grade-II Jail Warders and Firemen for the year 2017 mentioning 10% reservation is provided under Ward-cum-dependent quota. In this regard, a total number of 6.35 lakhs applications were received from prospective candidates. On scrutiny of the above applications, it was found that a total number of 5,86,770 candidates were eligible for written examination. The written examination was conducted for the eligible candidates on 21.05.2017 and the result was declared on 07.07.2017. Subsequently, the Physical Measurement Test, Endurance Test, Physical Efficiency Test and Certificate Verification were conducted from 27.07.2017 and completed on 11.08.2017 in 15 centres. After completion of the Physical Efficiency Test, the selection list were drawn after applying communal rotation as per the orders issued in G.O.Ms.No.65, Personnel and Administrative Reforms(K) Department, dated 27.05.2009. In all a total of 15,622 candidates have been provisionally selected for Police, Prison and Fire and Rescue Services departments as detailed below:-

Sl.No	Department		Total
1.	Police	AR (Men)	6004
		AR (Women)	2564
		TSP	4572
2.	Prison	Men	954
		Women	37
3.	Firemen		1491

18. In this recruitment, a total number of 970 candidates have been provisionally selected under ward-cum-dependent quota for Police, Prison and Fire and Rescue Services Departments as below:-

Sl.No.	Department		Total
1.	Police	AR	682
		TSP	187
2.	Prison		23
3.	Firemen		78

19. The final results were published on 31.08.2017 on Tamil Nadu Uniformed Services Recruitment Board website www.tnusrbonline.org. The training commenced on 01.11.2017 and posting orders were issued on 16.10.2017. In combined common recruitment process for the Post of Grade-II Police Constable, Grade-II Jail Warder and Firemen for the year 2017-2018, as per the vacancy positions furnished by the Police, Prison and Fire & Rescue Services Departments, the Notification was published in the dailies on 28.12.2017 for conducting Common Recruitment for the posts of 6094 + 46 (Backlog) Grade.II Police Constable, Grade.II Jail Warders and Firemen for the year 2017-2018 mentioning 10% reservation for Wards serving, retired, deceased and medically invalidated Police Personnel and serving ministerial staff. In this regard, a total number of 3,26,561 applications were received from prospective candidates. The written examination was conducted on 11.03.2018.

20. One Thiru.K.Sathish, S/o.Kumar(Retired Record clerk) filed W.P.(MD).No.16909/2017 before the Hon'ble Madurai Bench of Madras High Court, seeking orders to consider him under the provisions provided to the Police personnel under wards quota for the common recruitment of Grade.II Police Constable 2017. The W.P.filed by K.Sathish was dismissed on 07.09.2017. Subsequently, he filed W.A.(MD).No.1241/2017 before the Hon'ble Madurai Bench of Madras High Court. The Hon'ble High Court in its judgment dated 13.02.2018 made in W.A.No.1241/2017 had held that:-

"Therefore, even as we declare that the reservation for wards/dependents of serving, retired and medically invalidated police

personnel and serving ministerial staff of the police department is unconstitutional, we make it clear that the recruitment already made in terms of the said reservation would not be affected. However, in future the State Government shall not resort to the said reservation. Since the appellant seeks benefit under a rule that has been declared as unconstitutional, the question of granting relief to him will not arise."

21. The Tamil Nadu Uniformed Services Recruitment Board was informed vide Government letter(D) No.954, dated 10.08.2018 that the vacancies of wards quota reservation may be decided on the outcome of the SLP(Civil) No.16299 of 2018 filed by the State against the orders of the Madurai Bench of Madras High Court. As per the Government letter(D) No.954, dated 10.08.2018 the Board published the following addendum in the dailies on 16.08.2018.

"As per the orders dated 13.02.2018 of the Hon'ble Madurai Bench of Madras High Court in W.A.No.1241 and interim direction of the Hon'ble Supreme Court of India dated 24.10.2018, in Special Leave Petitions(c) No.16299/2018, the Common Recruitment of Grade II Police Constables, Grade.III Jail warders and Firemen for the year 2017-18 will be done excluding 10% wards/dependants quota of serving, retired, deceased, medically invalidated police personnel and serving ministerial staff of police department. The vacancies of wards quota reservation will be decided on the outcome of Special Leave Petition(Civil)No.16299 of 2018"

22. The written examination result was declared on 11.08.2018 and the Physical Measurement Test, Endurance Test, Physical Efficiency Test and Certificate Verification were conducted from 02.09.2018 to 20.09.2018. After completion of the Physical Efficiency Test, the select list were drawn after applying communal rotation as per the orders issued in G.O.Ms.No.65, Personnel and Administrative Reforms(K) Department, dated 27.05.2009. In all a total of 6119 candidates have been provisionally selected for Police, Prison and Fire and Rescue Services Departments as detailed below:-

Sl.No.	Department		Total
1.	Police	AR (Men)	4264
		AR (Women)	1267
2.	Prison	Men	315
		Women	36
3.	Firemen		237
Total			6119

23. The final results were published on 13.10.2018 on Tamil Nadu Uniformed Services Recruitment Board website www.Tnusrbonline.org. The training commenced on 02.12.2018.

24. The provision of 10% reservation under wards/dependent quota was not followed in the Common Recruitment for the posts of Grade-II Police Constables, Grade-II Jail Warders and Firemen for the year 2017-2018 as per W.A.(MD).No.1241/2017 Madurai Bench order dated 13.02.2018, which declared the wards reservation as unconstitutional.

25. The implementation of the judgment passed in W.A.(MD).No.1241 of 2017 dated 13.02.2018 has been enumerated in the Status Report by the Government. We are completely satisfied with the manner, in which, the judgment passed in W.A.(MD).No.1241 of 2017 has been complied with and the respondents had rightly declined the provisions of 10% reservation under wards/dependents Quota. This apart, once the Constitutional Courts arrived a conclusion that a particular quota is unconstitutional, thereafter, question of extending the benefit of the quota, which was declared as unconstitutional only for the recruitment process, which was in progress cannot be granted. Such a interpretation now proposed by the review petitioners are certainly contrary to the well established principles of law. Once an opportunity quota has been held unconstitutional, the recruitment should be allowed to be continued with the general reservations provided, excluding the quota, which was already declared as unconstitutional. Thus, the implementation of the orders of this Court by the Government is certainly in accord with the

letter and spirit of the judgment delivered by us in W.A.(MD).No.1241/2017 dated 13.02.2018.

26. As far as Paragraph 14 of our judgment is concerned, undoubtedly, the review petitioners have misconstrued our intention. Our intention was to hold that the Reservation on 10% quota for wards/dependents of serving/retired police personnel and serving ministerial staff of the police personnel is unconstitutional. Once, the quota has been held as unconstitutional, there is no scope for any further continuance or to implement the quota even in respect of the recruitment, which was under process. The very writ petition was in relation to the recruitment process, which was in progress. When we held that 10% quota is unconstitutional with reference to the same recruitment process, undoubtedly, 10% quota cannot be implemented in respect of the recruitment process, which had commenced pursuant to the Recruitment Notification No.2 dated 28.12.2017. The said position was clarified by us by not granting the relief to the writ petitioners. When we had declined the relief to the writ petitioner in respect of the benefit of 10% quota for wards/dependents and held that the quota itself is unconstitutional, then there is no question of implementing the said 10% quota for the recruitment process commenced and was in progress pursuant to the Notification No.2 dated 28.12.2017. Thus, we have no hesitation in clarifying and reiterating that 10% quota prescribed in the Recruitment Notification No.2 dated 28.12.2017 is unconstitutional and therefore, the authorities had rightly implemented our order by not providing the benefit of 10% quota to the candidates. The actions of the authorities in not providing the 10% quota with reference to the Recruitment Notification No.2 dated 28.12.2017 is certainly in consonance with our judgment and there is no infirmity in respect of the implementation done by the authorities competent.

27. Accordingly, Paragraph 14 of the judgment dated 13.02.2018 passed in W.A.(MD). No.1241/2017 is clarified as stated in the aforementioned paragraphs and accordingly, the present Review Petition stands dismissed. No costs. Consequently, connected miscellaneous

petition is also closed."

3. In view of the order passed by the Hon'ble Division Bench of this Court on 30.1.2019 in Review Application (MD) No.192 of 2018, no further consideration is required in respect of the grounds raised in the present writ petitions.

4. Accordingly, the writ petitions stand dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
Home (Police III) Department,
Fort St. George,
Chennai-9.
- 2.The Director General of Police,
Tamil Nadu,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai-4.
- 3.The Member Secretary,
T.N. Uniformed Services Recruitment Board,
Old Commissioner's Office Complex,
Montieth Road,
Egmore,
Chennai-8.
- 4.The Chairman-cum-Director General of Police,
TNUSRB, Old Commissioner of Police,
Office Campus,
Pantheon Road,
Egmore, Chennai-600 008.

+1cc to Mr.K.Ravi Anantha Padmanaban, Advocate, S.R.No.22423

WPs 23069, 23070 and 21480 of 2018

SPD(CO)
RRS (28/3/2019)