

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25-03-2019

CORAM

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

W.P.No.29959 of 2018

C.Kesavan

... Petitioner

- Vs. -

1.The State of Tamil Nadu,
Represented by its Secretary,
Home (Police III) Department,
Fort St. George,
Chennai.

2.The Director General of Police,
Tamil Nadu,
Dr. Radhakrishnan Salai,
Mylapore,
Chennai-600 004.

3.The Member Secretary,
The Tamil Nadu Uniformed Service
Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road,
Egmore,
Chennai-600 008.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ 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 Police Constable (Men and Women), Grade II Jail Warden (Men and Women) and Firemen for the year 2017-2018.

For Petitioner : Mr.V.Karnan

For Respondents-1&2 : Mr.A.N.Thambidurai,
Special Government Pleader.

For Respondent-3 : Mr.V.Karthikeyan,
Special Government Pleader.

O R D E R

The relief sought for in the present writ petition is for a direction to direct 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 Police Constable (Men and Women), Grade II Jail Warden (Men and Women) and Firemen for the year 2017-2018.

2. The writ petitioner claims priority on the basis of the quota provided for the wards of the police personnel working in the Department. In respect of the grant of quota to the wards of the police personnel, the Hon'ble Division Bench of the Madurai Bench of the Madras High Court passed an order in WA (MD) No.1241 of 2017 on 13.2.2018.

3. The Hon'ble Division Bench of the Madurai Bench of Madras High Court held that 10% quota provided for the wards of the police personnel working in the Department is unconstitutional.

4. The matter went up to the Hon'ble Supreme Court and the Hon'ble Supreme Court of India permitted the petitioner to file a clarification petition in respect of paragraph No.14 of the judgment of the Hon'ble Division Bench of the Madurai Bench of Madras High Court and in this regard, a Review Application in Review Application (MD) No.192 of 2019 was also filed.

5. The Hon'ble Division Bench of the Madurai Bench of Madras High Court passed an order on 30.1.2019 in Review Application (MD) No.192 of 2018, reiterating that the wards quota is unconstitutional and further clarified that the persons, who all are participated in the selection process of the year 2017-2018, are also not entitled to avail the wards quota and the relevant paragraphs 21, 22, 23, 24, 25, 26 and 27 of the judgment are extracted hereunder:-

"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.II 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."

6. In view of the judgment of the Hon'ble Division Bench of the Madurai Bench of Madras High Court, the relief, as such, sought for in the present writ petition cannot be granted.

7. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary,
State of Tamil Nadu,
Home (Police III) Department,
Fort St. George,
Chennai.

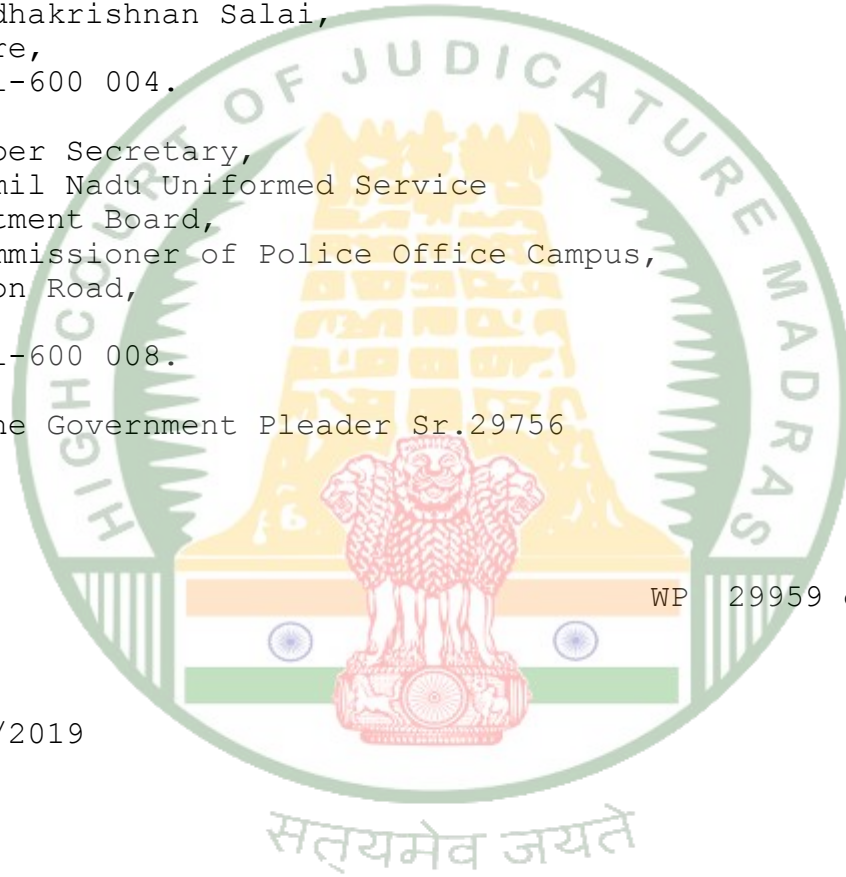
2.The Director General of Police,
Tamil Nadu,
Dr. Radhakrishnan Salai,
Mylapore,
Chennai-600 004.

3.The Member Secretary,
The Tamil Nadu Uniformed Service
Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road,
Egmore,
Chennai-600 008.

+1cc to the Government Pleader Sr.29756

WP 29959 of 2018

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