

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 17.07.2019

Coram

The Hon'ble Mr.Justice V.PARTHIBAN

W.P.No.33843 of 2018

M.Prabath

...Petitioner

Vs.

1. The Chairman,
The Uniform Service Recruitment Board,
Anna Salai,
Chennai.

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

....Respondents

R2 impleaded as per order dated
16.07.2019 in W.M.P.No.19963 of 2019

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondent to allot constable post in armed reserve police, as per the marks secured by the petitioner and consequently direct the respondent to issue monitory benefits from the date of initial appointment.

For Petitioner

... Mr.Arun Anbumani for
M/s.M.Mohamed Yasin

For Respondents

.. Mr.J.Pothiraj, Spl.G.P.for R1
Mr.V.Kathirvelu, Spl.G.P.for R2

ORDER

The respondent Board has published Notification in 2017 vide its advertisement No.117, in respect of 'Constable Recruitment 2017', for recruitment to the post of Constable Grade-II in Tamil Nadu Police. The petitioner had applied in response to the advertisement. The selection consisted of (i) Written examination (ii) Eligibility and Physical Efficiency

(endurance) Test (PET), (iii) Medical Examination and (iv) Final selection.

2.The petitioner passed the written examination on 21.05.2017 and also physical efficiency (endurance) test (PET) on 09.07.2017. He was also successful in medical examination. Thereafter, the respondent issued appointment letter on 16.10.2017 granting appointment to the petitioner in Tamil Nadu Special Police i.e. Battalion Police. According to the petitioner, when he submitted his application on 20.12.2016, he had opted to be posted in Armed Reserve Police as his choice in column No.16 of the application.

3.The petitioner belongs to Scheduled Caste community and also applied under persons studied in Tamil Medium category (PSTM). According to him, he had secured 73 marks i.e. above the cut off marks prescribed in his category for being appointed in Armed Reserve. Unfortunately, the petitioner came to be appointed only in the Tamil Nadu Special Police, which is contrary to the option exercised by him. During certificate verification conducted by the Sub-Committee, before his final selection, the petitioner had submitted all the certificates for verification and as regards the certificate certifying him as a person studied in Tamil Medium (PSTM), he had already enclosed the originals along with his OMR application form. In the said circumstances, the petitioner is before this Court seeking for direction to the respondents to appoint him as Constable in Armed Reserve Police in commensurate with the total marks secured by him.

4.After notice, Mr.J.Pothiraj, learned Special Government Pleader appeared for R1 and Mr.V.Kathirvelu, learned Special Government Pleader entered appearance on behalf of the second respondent and counter affidavit has also been filed.

5.In the counter affidavit, the marks secured by the petitioner i.e. 73 marks is admitted and the cut off marks for non-PSTM candidate under SC General category is also mentioned as under:

Sl. No.	Post preference	Cut off mark
1.	Armed Reserve	74
2.	Tsp	69
3.	Jail Warder	67
4.	Firemen	68

Further, the cut off marks for PSTM candidate under SC General Category is also mentioned as under:

Sl. No.	Post preference	Cut off mark
1.	Armed Reserve	72.5
2.	TSP	68
3.	Jail Warder	67
4.	Firemen	67

From the above, it could be seen that the petitioner had secured 73 marks as against the cut off marks of 72.5, prescribed for PSTM candidate under SC General Category, and therefore, eligible to be appointed as Constable in Armed Reserve Police.

6. In fact, in paragraph No.12 of the counter affidavit, the respondent has fairly admitted as follows:

"12. It is further submitted that during the certificate verification, the certificate verification officers of the Sub-Committee, Villupuram failed to verify the original PSTM certificate of the petitioner which he had enclosed along with his OMR application. In this regard a departmental action is being initiated against the concerned staff of the Villupuram Sub-Committee as reported by the Superintendent of Police, Villupuram District."

7. In view of the categorical admission by the first respondent in the counter affidavit that the Sub-Committee had failed to properly verify the original PSTM certificate enclosed by the petitioner along with his OMR application and the departmental action being initiated against the staff concerned, the petitioner has established his case beyond any doubt for grant of relief as prayed for in the writ petition.

8. Since the petitioner has secured more marks than the cut off marks fixed and admitted in the counter affidavit, i.e. 73 marks as against 72.5 marks, he became automatically entitled to be appointed in Armed Reserve in terms of option exercised by him. The error committed by the official of the Sub-Committee cannot result in the negation of petitioner's right to be appointed as Constable Armed Reserve. In any event, since the counter affidavit is supportive to the claim of the petitioner, this Court has no hesitation in allowing the writ petition.

9. In view of the above, the writ petition is allowed and the respondents are directed to grant appointment to the petitioner as Constable in Armed Reserve Police from the date when the other candidates have been granted appointment in the subject selection and grant him all other attendant and consequential benefits, including seniority, on such appointment. The respondents are directed to pass appropriate orders in this regard within a period of four weeks from the date of receipt of copy of this order. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

msk

To

1. The Chairman,
The Uniform Service Recruitment Board,
Anna Salai,
Chennai.
2. The Director General of Police,
Tamil Nadu,
Office of the Director General
of Police,
Dr.Radhakrishnan Salai Road,
Mylapore, Chennai-004

+2 ccs to M/s.M.Mohamed Yasin, Advocate, S.R.No.60477

+1 cc to the Government Pleader, S.R.No.61202

W.P.No. 33843 of 2018

SPD(CO)

SSM(14/08/2019).

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