

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2019

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.34418, 34419 and 34421 of 2018

N.Prabakaran

S/o.V.Neelamagem.

... Petitioner in W.P.No.34418 of 2018

R.Krishna Kumar

S/o. C.Rajendran.

... Petitioner in W.P.No.34419 of 2018

G.Dineshkumar

S/o.Ganesan

... Petitioner in W.P.No.34421 of 2018

-Vs-

1. The Principal Secretary to Government,
Home Department,
Fort St.George,
Chennai - 600 009.

2. The Director General of Police,
Chennai - 600 004.

3. The Chairman and Director General of Police,
Uniformed Services Recruitment Board,
Anna Salai, Chennai - 600 002.

... Respondents in all Writ petitions

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents herein to declare the result of 10% Ward Quota (1) for the Common Recruitment for Grade II PC Grade II Jail Warden and Fireman for the year 2017-2018 (in WP.No. 34419 & 34421/2018) respectively as per Rule 12 of TNPSS Rules 1953 and under Rule 7(b) of TNPSS rules 1978 and appoint the petitioner as Grade II Police Constable under 10% wards quota if he is otherwise qualified for the year 2017-2018, within a time-frame.

For petitioner : Mr. G.Bala for M/s.G.Bala and Daisy

For Respondents: Mr. D.Suriya Narayanan for R1 and R2

Mr.V.Kathirvelu,

Special Government Pleader for R3

...in all WPs.

COMMON ORDER

The relief as such sought for in these writ petitions, for a direction to direct the respondents to declare the result of 10% wards quota as per Rule 12 of TNPSS Rules 1953 and under Rule 7(b) of TNPSS Rules 1978 and appoint the petitioners as Grade II Police Constable under 10% wards quota, if they are otherwise qualified for selection of the year 2017-2018.

2. As far as the grant of wards quota is concerned, the Hon'ble Division Bench held that such a quota is unconstitutional in W.A(MD)No.1241 of 2017 dated 13.12.2018. The order passed by the Division Bench of this Court was confirmed by the Hon'ble Supreme Court of India in S.L.P.No.16299 of 2018 dated 24.10.2018. Based on the opportunity granted by the Hon'ble Supreme Court, the parties moved a review application before the Division Bench of this Court in Review Application (MD) No.19 of 2018 in Writ Appeal (MD) No.1241 of 2017, also disposed of by the Division Bench of this Court on 30.01.2019 and the relevant paragraphs 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."

3. In view of the fact that the wards quota itself is held that 10% quota unconstitutional and further, it is qualified by the Division Bench that 10% quota need not be implemented in respect of the selection of the year 2016-2017 and 2017-2018.

4. With these observations, these writ petitions stand dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

pns

To

1. Principal Secretary to Government,
Home Department,
Fort St. George,
Chennai - 600 009.
2. Director General of Police,
Chennai - 600 004.
3. The Chairman and Director General of Police,
Uniformed Services Recruitment Board,
Anna Salai, Chennai - 600 002.

+1cc to Mr.G.Bala & Daisy, Advocate, S.R.No.33281

W.P.Nos.34418, 34419 and 34421 of 2018

NRL(CO)
GN(08/05/2019)

WEB COPY