



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.08.2019

CORAM:

THE HONOURABLE DR.JUSTICE VINEET KOTHARI

and

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.A. (MD) Nos.215 & 216 of 2012

and

M.P. (MD) Nos.1 & 1 of 2012

1.The Chairman-cum-

Director General of Police
Tamil Nadu Uniformed Services
Recruitment Board
Chennai

2.The Member Secretary-cum-

Inspector General of Police
Tamil Nadu Uniformed Services
Recruitment Board
Chennai

3.The Member-cum-

Additional Director General of Police
Tamil Nadu Uniformed Services
Recruitment Board
Chennai

... Appellants / Respondents

-vs-

K.Sasikumar

... Respondent / Petitioner in
W.A.(MD) No.215 of 2012

K.Ramalingam

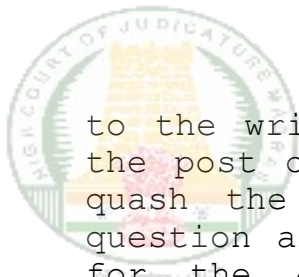
... Respondent / Petitioner in
W.A.(MD) No.216 of 2012

PRAYER (in W.A. (MD) No.215 of 2012) : Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 02.12.2009, made in W.P.(MD) No.3978 of 2009, on the file of this Court.

PRAYER (in W.A. (MD) No.216 of 2012): Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 02.12.2009, made in W.P.(MD) No.2603 of 2009, on the file of this Court.

Prayer in WP(MD). 3978/ 2009 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus, calling for the records relating to the key answer dated 6.6.2007 supplied by the respondents herein pertaining



to the written examination held on 20.5.2007 for the selection to the post of Sub Inspector of Police (men and Women) 2006-2007 and quash the key answer provided by the respondents for the 44th question and direct the respondents herein to award one mark to me for the 44th question and 0.5 Special mark for my 3 years participation in NCC and to issue appointment order to me in the post of Sub Inspector of Police.

Prayer in WP(MD) . 2603/ 2009 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus, calling for the records relating to the key answer dated 6.6.2007 supplied by the respondents herein pertaining to the written examination for the selection of Sub Inspector of Police (Men) 2006-2007 and quash the key answer provided by the respondents for the 44th question and direct the respondents herein to award mark for the petitioner for the 44th question and issue appointment order as Sub Inspector of Police.

For Appellants : Mr.N.Shanmugaselvam
(in both W.As.) Additional Government Pleader

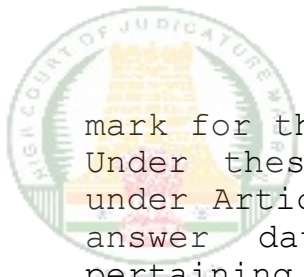
For Respondent : Mr.S.Gokul Raj
(in both W.As.)

J U D G M E N T

[Judgment of the Court by S.M.SUBRAMANIAM, J.]

These intra-court appeals are filed against the common order, dated 02.12.2009, passed in W.P.(MD) Nos.2603 and 3978 of 2009.

2. The facts in nutshell to be considered for the purpose of deciding these intra-court appeals are that pursuant to the recruitment notification issued by the Tamil Nadu Uniformed Services Recruitment Board for selection and appointment to the post of Sub Inspector of Police (Men and Women) during the year 2006, the respondents (writ petitioners) in these writ appeals submitted their respective applications and participated in the process of selection. The written test was conducted by the appellant / Board on 20.05.2007. Both the respondents were successful in the written examination and consequently, they were allowed to participate in the physical efficiency test, endurance test and other connected tests. The respondents were successful in all the tests and viva voice test was held on 26.06.2007. The respondents participated in the process of interview conducted by the appellant / Board. Results were published. Both the respondents had scored 73 marks. However, the cut off mark fixed for selection was 74. Thus, the respondents were not selected and appointed as they were lacking one

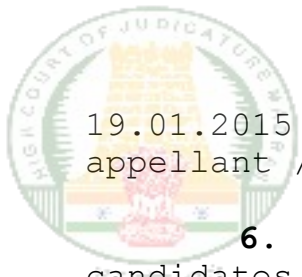


mark for the cut off mark in respect of the Backward class category. Under these circumstances, the respondents filed writ petitions, under Article 226 of the Constitution of India, challenging the key answer dated 06.06.2007, supplied by the appellant / Board pertaining to the written examination held on 20.05.2007 and consequently, sought for a direction to award one mark to them for 44th question and special mark of 0.5 for three years participation in NCC and accordingly, to issue appointment orders to them for the post of Sub Inspector of Police.

3. The writ petitions were taken up for final hearing and the learned Single Judge of this Court, by relying on the order dated 04.11.2009 passed in W.P.(MD) Nos.4509 of 2009 etc. batch, held that the respondents herein were also standing on the same footing as that of the writ petitioners in W.P.(MD) Nos.4509 of 2009 etc. batch and consequently, directed the appellant / Board to comply with the directions issued in the order dated 04.11.2009 in W.P.(MD) Nos.4509 of 2009 etc. batch in favour of the respondents also. In other words, the directions issued in the order dated 04.11.2009 in W.P.(MD) Nos.4509 of 2009 etc. batch were extended in favour of the respondents herein and accordingly, the writ petitions were ordered.

4. Challenging the said order, the appellants have preferred the present writ appeals justifying the key answers and contended that the respondents are not entitled for award of any additional marks as the valuation was done properly and in accordance with the procedures contemplated. The appellant / Board reiterated that grant of such additional marks would unsettle the process of selection completed long back and would lead to multiplicity of proceedings. The vacancies in the post of Sub Inspector of Police were already filled up and even if the key answers for certain questions are not correct that by itself would not provide any right to the respondents to seek appointment. There was no malpractice or otherwise established by the respondents. Award of marks were followed uniformly and consistently in respect of all the candidates, who had participated in the written examination. Thus, there is no irregularity in the process of selection and appointment to the post of Sub Inspector of Police.

5. It is contended that the State preferred writ appeals, which were allowed by the Division Bench of this Court and the order passed by the learned Single Judge of this Court was set aside. The special leave petitions filed by the selected candidates were also dismissed by the Honourable Supreme Court of India on 19.01.2015 itself. Thereafter, the similar case was considered by the Division Bench of this Court recently in W.A.(MD) Nos.133 and 134 of 2012 and a Judgment was passed on 04.07.2019 stating that the order of the Division Bench in W.A.Nos.1719 to 1739 of 2010 etc. batch, dated 23.12.2010, was confirmed by the Apex Court by order dated



19.01.2015 in S.L.P.Nos.36358 to 36391 of 2011 etc. in favour of the appellant / Board.

6. In view of the fact that the claim of the selected candidates for award of additional marks were rejected by the Division Bench of this Court, which was confirmed by the Honourable Supreme Court of India, we are of the considered opinion that the present writ appeals filed by the State deserve to be considered.

7. Accordingly, the order dated, 02.12.2009, passed in W.P. (MD) Nos.2603 and 3978 of 2009, are quashed and the writ appeals stand allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

To

- 1.The Chairman-cum-
Director General of Police
Tamil Nadu Uniformed Services
Recruitment Board, Chennai
- 2.The Member Secretary-cum-
Inspector General of Police
Tamil Nadu Uniformed Services
Recruitment Board, Chennai
- 3.The Member-cum-
Additional Director General of Police
Tamil Nadu Uniformed Services
Recruitment Board, Chennai

+1 CC to Mr.S.GOKULRAJ, Advocate SR-83092.

W.A. (MD) Nos.215 & 216 of 2012
and
M.P. (MD) Nos.1 & 1 of 2012

CS (12.09.2019) 4P 5C