



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:05.07.2019

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

W.P. (MD) No.11502 of 2014

and

M.P. (MD) No.1 of 2014

S.Bhagavathi Raja

... Petitioner

-vs-

1.The Secretary,
Staff Selection Commission,
Block No.12, CGO Complex,
Lodhi Road, New Delhi.

2.The Regional Director,
Staff Selection Commission,
Southern Region,
EVK Sampath Building,
College Road, Chennai-6.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to issue appointment order of Constable (GD) in CAPFs for the year 2013 to 2014 within the stipulated time as fixed by this Court.

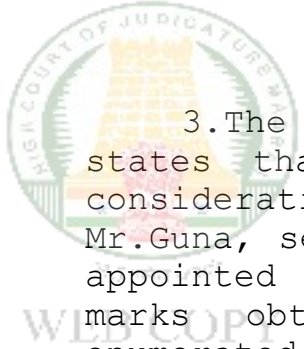
For Petitioner : Mr.K.Seemaraj

For Respondents : Mr.C.Nandagopal

O R D E R

The relief sought for in the present writ petition is for a direction to direct the respondents to issue appointment order of Constable (GD) in CAPFs for the year 2013-14.

2.The writ petitioner participated in the process of selection for appointment to the post of constable (GD) in CAPFs and Rifleman (GD) in Assam Rifles 2013. The writ petitioner was successful in the written examination and he attended the Physical Efficiency Test also. The respondents informed the petitioner that he was fully qualified for appointment to the post of constable. However, the writ petitioner had not received any appointment order. On verification, the writ petitioner came to know that he was not selected for appointment to the post of Constable (GD). Thus, the petitioner is constrained to move the present writ petition.



3.The learned counsel appearing on behalf of the respondents states that the writ petitioner was not within the zone of consideration and he secured 10 marks and the other person one Mr.Guna, secured 16 marks and therefore, Mr.Guna, was selected and appointed to the post of Constable (GD). The facts regarding the marks obtained by Mr.S.Bhagavathi Raja and Mr.G.Guna are enumerated in the counter affidavit filed by the respondents in Paragraph Nos.9, 10 and 11, which are to be extracted hereunder:-

"...9.It is humbly submitted that the facts stated in para 5 are not fully correct. The Commission hereby submits the real facts as follows:-

It is most respectfully submitted that from the above statement of marks, it is understood that one Shri S.Bhagavathi Raja (the petitioner herein) and Shri G.Guna have secured the same marks. When more than one candidate secure same cut-off marks, the candidate who secured cut-off marks in Part-A in the Written Examination will be given preference in the selection by the Commission as per the guidelines framed by the Commission for resolving TIE cases.

10.It is humbly submitted that the guidelines for resolving TIE cases have been given in the Recruitment Notice vide Para-11. The guidelines are as follows:-

(a)The TIE is resolved by the Commission by referring to the total marks in the Written Examination i.e., a candidate having more marks in the Written Examination gets preference over the candidate(s) with less marks.

(b)If the TIE still persists, then the marks in Part-A are referred to i.e., a candidate having more marks in Part-A is given preference.

(c)If the tie still persists, the candidate older in age gets preference.

(d)If the tie still persists, it is finally resolved by referring to the alphabetical order of names i.e., a candidate whose name begins with the alphabet which comes first in the alphabetical order gets preference.



11.It is submitted that while resolving TIE cases as per Para-11(b) of the Recruitment Notice, Shri G.Guna who was selected for the post of Sashastra Seema Bal (SSB) under OBC Category has scored 16 marks in Part-A whereas the petitioner, Shri S.Bhagavathi Raja has scored only 10 marks in Part-A. It is apparent from Para-8 above that the last selected candidate who has scored 13 marks in Part-A, with the total score of 37marks has been selected by the Commission.."

4.This apart, the selection list also enumerates that the said Mr.G.Guna secured 16 marks in Part-A and the writ petitioner secured 10 marks in Part-A, though both the candidates secured 37 marks in total, in respect of Part-A, the writ petitioner secured only 10 marks and the other person secured 16 marks. Therefore, the other person was selected and the writ petitioner was declared as unsuccessful. The scheme of recruitment now followed and the tie between the writ petitioner as well as Mr.G.Guna was also clarified in the counter affidavit.

5.This being the factum, now after a lapse of five years, the selection made deserves no further consideration as the writ petitioner has not established any acceptable reasons for interfering with the appointments made.

5.Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Secretary, Staff Selection Commission,
Block No.12, CGO Complex, Lodhi Road, New Delhi.

2.The Regional Director, Staff Selection Commission,
Southern Region, EVK Sampath Building, College Road, Chennai-6.

+1cc to Mr.K.Seemaraj, Advocate, SR.No.74022

sjj/Ns

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