



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.09.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.18235 of 2018

and

W.M.P. (MD) No.16142 of 2018

WEB COPY

M.Muthualagu

... Petitioner

-Vs-

- 1.The Secretary,
Tamil Nadu Public Service Commission,
No.3, Frazer Bridge Road,
Park Town, Chennai.
- 2.The Controller of Examination,
Tamil Nadu Public Service Commission,
No.3, Frazer Bridge Road,
Park Town, Chennai.
- 3.The Government of India,
Ministry of Home Affairs,
Represented by its Director North Block,
New Delhi.
- 4.The Principal Secretary to Government of
Tamil Nadu,
Public and Employment Department,
St. Fort George, Chennai.
- 5.The Additional Secretary to Government,
Public (Ex-Servicemen) Department,
Secretariat, Chennai-600 009.

... Respondents

(R5 is impleaded vide Court order dated 24.09.2018 in W.M.P. (MD) No.17909 of 2018)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents 1 and 2 to include the petitioner's name in the counselling list scheduled to be held from 27.08.2018 to 12.09.2018 for the posts in Group II A service (2017-2018) namely, Combined Civil Service Exam-II (Non-Interview Post) and consequently, direct the respondents 1 and 2 to issue appointment order to the petitioner for a suitable post.



WEB COPY

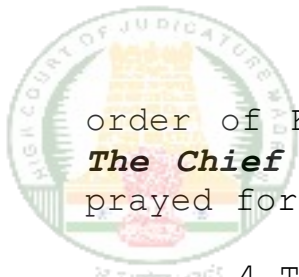
For Petitioner	: Mr.M.Thirunavukkarasu
For R1 and R2	: Mr.D.Sivaraman, Standing Counsel.
For R3	: Mr.H.Velavadhas
For R4 and R5	: Mr.S.Dhayalan, Government Advocate.

ORDER

This Writ Petition is filed, seeking for a direction to the respondents 1 and 2 to include the petitioner's name in the counselling list scheduled to be held from 27.08.2018 to 12.09.2018, for the posts in Group II A service (2017-2018) namely, Combined Civil Service Exam-II (Non-Interview Post) and consequently, direct the respondents 1 and 2 to issue appointment order to the petitioner for a suitable post.

2.The petitioner is a retired Head Constable. After serving 21 years and 8 months of service in the Border Security Force (hereinafter referred to as 'BSF'), he retired on 31.10.2016. After his retirement, he had registered his service with the Ex-Servicemen Welfare Association at Arumbakkam, Chennai and he was confirmed with the declaration as Ex-Serviceman. The first respondent called for application for appointment of various posts in Group II A Service (2017-2018) namely, Combined Civil Service Exam-II (Non-Interview Post) for filling up 1953 vacancies. As per the said notification, 5% reservation was made to Ex-Servicemen. The petitioner has possessed all the required qualification and applied for the said post under 5% reservation quota for Ex-Servicemen. The petitioner was successful in the written examination, which was held on 06.08.2017 and was placed in 44th rank under Ex-Servicemen rank list and overall rank is 70617 in Statewide rank list. The petitioner has appeared for certificate verification on 20.07.2018 and he was informed that he will be called for counselling, within a short time. The respondents 1 and 2 have published a list on 14.08.2018 and the petitioner's name was not found in the said list. On verification, the second respondent informed the petitioner that he had served in the BSF and therefore, he cannot be considered as Ex-Serviceman.

3.The learned counsel appearing for the petitioner contended that the Government of India, Ministry of Home Affairs, in the proceedings dated 30.11.2012, published that CRPF, BSF, CISF and ITBF, SSB will also fall under the Ex-Central Armed Police Force Personnel (Ex-CAPF Personnel) category and by the communication of the third respondent dated 23.11.2012, the fourth respondent was duly informed and directed to extend the benefits under State and Union Territories to the retired CRPF, BSF, CISF and ITBF, SSB persons with Ex-Serviceman status. He relied on the



order of Kerala High Court in the matter of **V.Thulasi Naiar Vs. The Chief Army Staff and others** made in W.P.No.23422 of 2013 and prayed for allowing the Writ Petition.

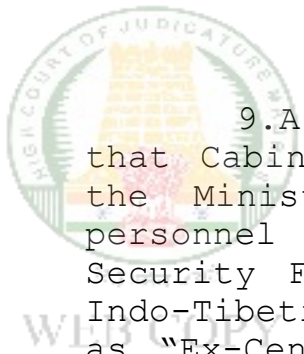
4.The learned counsel appearing for the third respondent has filed counter affidavit and contended that by the office memorandum, No.27011/100/2012-R&W, dated 23.11.2012, (Annexure-1), the third respondent has intimated that Cabinet Committee on Security has approved the proposal to declare retired Central Armed Police Force Personnel from Central Reserve Police Force (CRPF), Border Security Force (BSF), Central Industrial Security Force (CISF), Indo-Tibetan Border Police (ITBP) and Sashastra Seema Bal (SSB) as "Ex-Central Armed Police Force Personnel" (Ex-CAPF Personnel). Further, based on such designation, the State Government and UT Administrations may extend suitable benefits to them on the lines of the benefits extended by the State and UT Government to the Ex-Servicemen of Defence Forces.

5.The 5th respondent has filed counter affidavit, wherein he has referred various Government Orders and stated that the Government, by G.O.Ms.No.762, Public (Ex-Servicemen) Department, dated 29.08.2002, have reserved 5% of the posts for Ex-Servicemen in Group 'C' category. The said reservation applies only to the Ex-services Personnel of Armed Forces (Army, Navy and Airforce). The petitioner is not an Ex-Serviceman and hence, he is not entitled for appointment under Ex-Servicemen category.

6.The learned Government Advocate appearing for the respondents 4 and 5 has also filed a communication dated 19.02.2013, issued by the Government of Tamil Nadu, Ministry of Defence, and also G.O.Ms.No.1110, Public (Ex-Servicemen) Department, dated 10.12.2002 and contended that at the time of certificate verification only, it was found that the petitioner is not an Ex-Serviceman and has given a false information and prayed for dismissal of the Writ Petition.

7.Heard Mr.M.Thirunavukkarasu, learned counsel appearing on behalf of the petitioner, Mr.D.Sivaraman, learned Standing Counsel appearing on behalf of the respondents 1 and 2, Mr.H.Velavadhas, learned counsel appearing on behalf of the third respondent and Mr.S.Dhayalan, learned Government Advocate appearing on behalf of the respondents 4 and 5.

8.The main contention of the learned counsel for the petitioner is that the persons, who have served in the BSF is also an Ex-Servicemen and the Central Government, by the communication dated 30.11.2012 has clarified that BSF Personnel will also fall under the category of Ex-Servicemen.



9.A reading of the communication, dated 30.11.2012, shows that Cabinet Committee on Security has approved the proposal of the Ministry to declare retired Central Armed Police Force personnel from Central Reserve Police Force (CRPF), Border Security Force (BSF), Central Industrial Security Force (CISF), Indo-Tibetan Border Police (ITBP) and Sashastra Seema Bal (SSB) as "Ex-Central Armed Police Force Personnel" (Ex-CAPF Personnel). The Central Government has not clarified that the persons, who worked in the Central Armed Force like BSF are the Ex-Servicemen. On the other hand, in the communication dated 19.02.2013, filed in the typed set of papers by the learned Government Advocate, it has been stated that an Ex-Servicemen means a person, who has served in any rank whether as a Combatant or non-combatant in the regular Army, Navy and Air Force of the Union.

10.The contention of the learned Standing Counsel appearing for the respondents 1 and 2 that the first respondent came to understand that the petitioner is not an Ex-Serviceman, only at the time of certificate verification, and therefore, he was not included in the list, is acceptable.

11.The materials produced by the respondents clearly show that the persons, who have worked in the regular Army, Navy and Air Force of the Union retired from the said service alone are Ex-Servicemen. The communication, dated 30.11.2012, referred by the learned counsel for the petitioner did not support the case of the petitioner. In view of the same, the order of the Kerala High Court, relied upon by the learned counsel appearing for the petitioner, is not applicable to the facts of the present case and does not support the case of the petitioner.

12.For the above reasons, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar (CS)

Myr

To

1.The Secretary,
Tamil Nadu Public Service Commission,
No.3, Frazer Bridge Road,
Park Town, Chennai.



2.The Controller of Examination,
Tamil Nadu Public Service Commission,
No.3, Frazer Bridge Road,
Park Town, Chennai.

3.The Director , North Block,
Ministry of Home Affairs
Union of India, New Delhi

4.The Principal Secretary to Government of
Tamil Nadu,
Public and Employment Department,
St. Fort George, Chennai.

5.The Additional Secretary to Government,
Public (Ex-Servicemen) Department,
Secretariat, Chennai-600 009.

+1 CC to M/s.M.THIRUNAVUKKARASU, Advocate (SR-88756[F] dated
24/09/2019)

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-88622[F] dated
23/09/2019)

+1 CC to M/s.H.VELAVADHAS, Advocate (SR-88790[F] dated 24/09/2019
)

+1 CC to M/s.GP (SR-88862[F] dated 24/09/2019)

W.P. (MD) No.18235 of 2018
23.09.2019

_KM/(15.10.2019) 5P 10C