

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.18981 of 2009

ORDER:

This writ petition is filed seeking a Writ of Mandamus declaring the action of respondents in not considering the petitioner's case for appointment to the post of Constable, as arbitrary, illegal and violative of principles of natural justice and sought consequential directions directing the respondents to consider the petitioner's case for appointment as Constable, with all consequential benefits.

2. Heard learned counsel for the parties.

3. It has been contended by the petitioner that he is fully eligible and qualified to be appointed as Constable and the respondents have issued notification for filling up the vacancies of Constable during 2009. Petitioner is a member belonging to Scheduled Caste community and he had participated in the selection process and secured 38 marks. The petitioner was also subjected to medical examination, in which, he was declared to be fit for appointment. In spite of the same, the respondents are not appointing the petitioner to the post of Constable. Challenging the same, the present writ petition is filed.

4. The counsel appearing for petitioner has contended that since the petitioner has secured 38 marks in the examination and also cleared the medical test, appropriate orders be passed in the writ petition directing the respondents to consider the case of petitioner for appointment to the post of Constable.

5. The learned Standing Counsel appearing for respondents has contended that in 2009, 4 vacancies of Constable were notified and all the 4 posts were filled up, and that, as the petitioner could not come up within the zone of consideration, his case was not considered for appointment to the post of Constable. In the counter, the respondents have annexed one proceedings dated 21.07.2009, which shows that the case of the petitioner was considered and rejected on the ground that the petitioner was not coming within the zone of consideration. Without challenging the said rejection order, petitioner has filed the present writ petition. Therefore, there are no merits in the writ petition and the same is liable to be dismissed.

6. This Court, having considered the rival submissions made by the parties, is of the considered view that though the petitioner is eligible to be appointed as Constable, he did not come within the zone of consideration for appointment to the said post. Therefore, this Court cannot give a positive Mandamus to appoint the petitioner as Constable. There are no merits in the writ petition and it is liable to be dismissed.

7. The writ petition is accordingly dismissed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

23rd September 2019

ajr