

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 10-02-2020

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.NOS.326 OF 2020 & 783 OF 2019

Pushpa Ramesh Tayade

... Petitioner in both W.Ps.

-vs-

1. The Asst. Inspector General (Recruitment),
Central Industrial Security Force,
No.13, CGO Complex, Lodhi Road,
New Delhi-110 003.
2. The Deputy Commandant (ADM),
Central Industrial Security Force,
Regional Training Centre, Suraksha Campus-Post,
Arakkonam, Ranipet - District, T.N. - 631152.

... Respondents in W.P.No.326/2020

1. Union of India,
rep. by its Secretary to Government,
Ministry of Home Affairs,
New Delhi - 110 001.
2. The Director General,
Central Industrial Security Force,
No.13, CGO Complex, Lodhi Road,
New Delhi-110 003.
3. The Deputy Inspector General (Recruitment),
Central Industrial Security Force,
No.13, CGO Complex, Lodhi Road,
New Delhi-110 003.
4. The Deputy Inspector General,
Central Industrial Security Force,
South Zone Headquarters,
Rajaji Bhavan, Besant Nagar,
Chennai-600 090.

5. The Deputy Commandant (ADM),
Central Industrial Security Force,
Regional Training Centre, Suraksha Campus-Post,
Arakkonam, Vellore - District, T.N. - 631152.

... Respondents in W.P.No.738/2019

W.P.No.326 of 2020 is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order passed by the second respondent in his letter No.E-42099/CISF/RTC(A)/ADM/MISC/2019/5782, dated 25.12.2019, and quash the same and to direct the respondents to accept the petitioner's application, dated 02.12.2019, and permit the petitioner to participate in the stage wise examination as scheduled by the first respondent Notification No.4191, dated 25.10.2019.

W.P.No.783 of 2019 is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order passed by the fifth respondent in his letter No.E-38014/CISF/RTC(A)/ADM/2018/7921, dated 22.12.2018, and quash the same and to direct the respondents to accept the petitioner's application, dated 19.11.2018, and permit the petitioner to participate in the stage wise examination scheduled in the Notification.

For Petitioner in W.P.No.326/2020 : Mr.R.Thiyagarajan

For Petitioner in W.P.No.783/2019 : Mr.K.Sivakumar

For Respondents in both W.Ps.: Mr.K.Thirukumaran,
Addl.Central Government Standing Counsel.

COMMON ORDER

The issue that is involved in the above Writ Petitions is common and, therefore, both the Writ Petitions are taken up together and disposed of, in common.

2. The case of the petitioner is that she is serving as a Lady Constable from the year 2007 onwards and had submitted an application to the respondents for participating in the selection to the post of Sub-Inspector in CISF. The application submitted by the petitioner was rejected, by relying upon the following Clauses of the Notification, dated 25.10.2019:

'6. (a) - (c)

(d) Clean Record : The candidates must have good ACRs for last 05 years and should have unblemished service record till the issue of offer of appointment.'

'10. (a) - (j)

(k) It will be the responsibility of the Unit Commander not to forward any application of candidate who have not maintained 'Good' ACRs for the last five years and who have been awarded any major or minor punishment(s) during his/her entire service till the date of forwarding his/her application. Further, in case a candidate is awarded any major or minor punishment after submission of his/her application, it will be the responsibility of the concerned Unit Commander to inform the facts to the application receiving Zonal DisG as well as this Directorate and to not to relieve such candidates for attending the tests whenever he is called for the same.'

3. In the present case, the petitioner was awarded with a punishment of 'Censure' by proceedings, dated 25.10.2010. In view of the said punishment, Clause (k) of the Notification, dated 25.10.2019, has been put against the petitioner.

4. Learned counsel for the petitioner submitted that the requirement that has been stipulated in the Notification goes against the very Recruitment Rules itself, since the Recruitment Rules only stipulate the condition that the candidate must have good record of service; but, the respondents have added the Clause to the effect that the candidate should not have been awarded with any major or minor punishment during his/her entire service till the date of forwarding the application. According to the learned counsel, the said condition is draconian and the punishment of 'Censure' can never be held against the candidate, while being considered for selection/promotion to a higher post.

5. Per contra, Mr.K.Thirukumaran, learned Additional Central Government Standing Counsel, submitted that the petitioner has not challenged the requirement that has been provided in the Notification and, therefore, he cannot maintain the Writ Petitions before this Court. The learned Standing Counsel further submitted that this condition, which was also provided for selection of Assistant Commandant, was challenged before a Division Bench of this Court in W.P.No.3545 of 2018 and the Division Bench, by an order, dated 10.02.2020, dismissed the Writ Petition, upholding the Clause, stipulating the condition, which is in pari materia to Clause 10 (k) of the present

Notification.

6. This Court has carefully considered the submissions made on either side and also the material available on record.

7. This Court need not go into all other issues, which have been raised in these Writ Petitions. A Division Bench of this Court has upheld the Clause, stipulating the requirement of a candidate not being awarded with any major or minor punishment during the entire service till the date of considering the application. Even though the Clause was upheld with regard to the post of Assistant Commandant, the same will equally apply even to the post of Sub-Inspector and what is important is, the Clause, that was put under challenge. In view of the orders of the Division Bench, this Court is bound by the said orders and this Court cannot grant any relief to the petitioner de hors Clause 10 (k) of the Notification. As such, this Court does not find any illegality in the respondents rejecting the application submitted by the petitioner, by relying upon Clauses 6 (d) and 10 (k) of the Notification.

8. Writ Petitions are dismissed accordingly. No costs. Consequently, the connected W.M.P.Nos.370 and 371 of 2020 and 855 of 2019 also stand dismissed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

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South Zone Headquarters,
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Chennai-600 090.

+1cc to Mr.K.Thirukumaran, Advocate, S.R.No.10319
+1cc to Mr.R.Nagarajan, Advocate, S.R.No.10286
+1cc to Mr.R.Thiyagarajan, Advocate, S.R.No.10285

W.P.Nos.326/2020 & 783/2019

PA(CO)
CS/22/05/2020



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