

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 17.08.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No. 13169 of 2013

G.Rajaram

.. Petitioner

- Vs -

1.The Secretary to Government,
Home Department (Police III)
Government of Tamil Nadu
Fort.St. George,
Chennai 600 009.

2.The Director General of Police,
Chennai 600 004.

3.The Chairman,
The Tamil Nadu Uniform Service,
Recruitment Board,
Chennai 600 020.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Mandamus, to direct the respondents herein to appoint the petitioner as a Sub inspector and to grant such further or other reliefs as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

Petitioner : No appearance

For Respondents: Mr.S.T.Thangavel, Spl. G.P

ORDER

This Writ petition has been filed by the petitioner, praying to issue a writ of Mandamus, to direct the respondents herein to appoint the petitioner as a Sub Inspector and to grant such further or other reliefs as this Hon'ble High Court may deem fit.

2. The case was initially listed on 08.07.2020, there was no representation for the petitioner. Hence the matter was posted

for hearing on 13.07.2020. When the matter is taken up today, there is no representation for the petitioner. Considering the fact that the matter is pending since 2013, this Court proceeds to decide the case on merits, based on the materials available on record and pass orders.

3. On perusal of the affidavit and counter affidavit, it appears that the petitioner is a member of scheduled caste and was appointed as a Grade II Constable in the Chennai City Range on 21.02.1986. Between 1986 and 1989, he worked as Armed Reserve Police at Pudupet in Chennai, and from 1989 to 1993, he worked as Traffic P.S. at various stations. The petitioner, while working in the Law and Order department in the year 1983, was promoted as Grade I Constable in the year 1997. While in service, he acquired several medals for participation in the district sports category and games event and obtained several certificates. In the mean while, he completed Under Graduation qualification in the year 2008.

3.1.The Tamil Nadu Uniformed Services Recruitment Board called for applications for the post of Sub- Inspector in the year 1998; subsequently a memorandum was issued by the Chairman of Tamil Nadu Uniformed Services Recruitment Board indicating reservation for in service quota at 20% and for open competition at 80 % and the petitioner participated in the physical efficiency test and written test. However he was not selected in the written test. Aggrieved against the selection process, the petitioner, preferred O.A.No.51/2003, on the file of the State Administrative Tribunal, and many other persons like the petitioner also filed applications challenging the selection process and their applications, on abolition of the Tribunal, was transferred and renumbered as W.P.Nos.17639 to 17660 of 2000 and this Court by its order dated 25.02.2005 invalidated the zonal selection process. However the petitioner's O.A. No.51/03 remained pending. Therefore, he filed WP.No.9680 of 2005, praying for issuance of a writ of Mandamus directing the respondents therein to consider and select the petitioner for the post of Sub Inspection as per the directions given in the earlier round of litigation. In the aforesaid process, the O.A.No.51/2003 was transferred to this Court and renumbered as WP.No.36003 of 2005, and both the writ petitions viz, WP.No.9680/2005 and WP.No.36003/2005, were taken up together for disposal by a Division Bench of this Court, and the same were disposed on 10.11.2005.

3.2.In pursuance of disposal of the WP.No.17639-17600 of 2001, the petitioner was also called for interview and in view of the above position, the petitioner's writ petitions were dismissed. Thereafter review application in Review Application No.73/2006, was filed by the State seeking of review the order

dated 10.11.2005, which was dismissed. The petitioner was not selected as he did not successfully complete the 100 mtr., test event and thereafter the petitioner also did not appear for written test.

3.3.As against the order passed in Review application NO.73/2006, the petitioner filed a Special Leave Petition (Civil) NO.2669/2008 and the same was dismissed at the stage of admission itself. Aggrieved against the same, the petitioner filed another Review Application NO.48/2009, for a review of the judgment dated 31.07.2008 in Review Application No.73/2006, and it was listed before this Court on 14.07.2009. The continuous litigation process resulted in the award of costs in favour of the petitioner. As against his non-selection, the present writ petition has been preferred.

3.4. A perusal of the entire records reveal that with regard to the very same selection process, the petitioner filed various writ petitions and it is clear from the orders passed in the above petitions that the issue already stands settled. The records further reveal that the petitioner was not selected in the physical test as well as in the written test. Though the petitioner belongs to scheduled caste category, the cut off marks fixed by the State is 57.43, whereas the petitioner has secured only 54.80 marks.

4.The very same issue stands settled by the decision of the Hon'ble Apex Court in K.A.Nagamani Vs. India Airlines, 2009(3) SCC 515 and in Amalan Jyoti Borooah Vs. State of Assam 2004(3) SCC 227, wherein it has been held that 'a candidate participating in the selection process, on being found unsuccessful, he cannot challenge the very method adopted by the authorities and he was estopped from contending so'. Further in the absence of any specific rule or guidelines, it is always open to the selecting authority to adopt a reasonable criteria which will not be arbitrary or in violation of Article 14 of the Constitution, which is also observed and approved by this Court in A.Saravanan Vs.TNPSC & Anr.

5.In the case on hand, the petitioner having participated in the selection process and having not come out successful, it is not open to the petitioner to challenge the method adopted for selection after participating in the selection process and grievance, if any, has to be voiced out at the initial stage and not at a stage, when he is declared unsuccessful. The petitioner, having not challenged the selection process at the initial point of time and having not come out successful, cannot come and challenge the very selection process, only because the result of the interview is not palatable to him. The petitioner cannot turnaround and subsequently contend that the process of

interview was unfair.

6. For the reasons aforesaid, this Court finds that this writ petition is devoid of merits and, accordingly, the same is dismissed. However there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

jrs

To

- 1.The Secretary to Government,
Home Department (Police III)
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Chennai 600 009.
- 2.The Director General of Police,
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- 3.The Chairman,
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+1 cc to The Government Pleader, Sr.No. 27008

W.P. NO.13169 OF 2013

RSV(CO)
RMP(03/11/2020)