

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 18.11.2020

Delivered on 03.12.2020

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.10284 of 2020

and

W.M.P.Nos.12500 & 12502 of 2020

J.Saranya,
W/o T.Boopathy
Residing at
L-13, CID Police Quarters,
Papanasam Sivan Salai,
Mylapore,
Chennai - 600 004. ...Petitioner.

Vs.

1. The State of Tamil Nadu
represented by Secretary to Government,
Home Department, Fort St.George,
Chennai - 600 009.
2. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Chennai Commissioner's office,
Egmore, Chennai - 600 008. ...Respondents.

Prayer:

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to quash the rejection order dated 16.03.2020 passed by the 2nd respondent rejecting the petitioner candidature for the post of Sub-Inspector of Police (Armed Reserve and Tamilnadu Special Police) 2019 and consequently direct the 2nd respondent to permit the petitioner to participate in further selection process for the post of Sub-Inspector of Police (Armed Reserve and Tamilnadu Special Police) 2019.

For Petitioner : Mr.S.M.Muralidharan
For Respondents : Mr.D.venkatesan,
Government Advocate for R1
Mr.V.Kathirvelu,
Special Government Pleader for R2.

O R D E R

The matter is taken up through web hearing.

2. This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus to quash the rejection order dated 16.03.2020 passed by the 2nd respondent, rejecting the petitioner candidature for the post of Sub-Inspector of Police (Armed Reserve and Tamilnadu Special Police) 2019 and consequently, direct the 2nd respondent to permit the petitioner to participate in further selection process for the post of Sub-Inspector of Police (Armed Reserve and Tamilnadu Special Police) 2019.

3. The case of the petitioner is that she joined the Police Department as Women Police Constable Grade-II on 01.02.2011. The 2nd respondent Board issued notification dated 08.03.2019 inviting applications for recruitment to the post of Sub-Inspector of Police, (Taluk, Armed Reserve and Tamil Nadu Special Police) 2019, for filling up of 969 vacancies from the open market, as well as from the Department. As far as the Department quota is concerned, 20% of the vacancies is reserved for the in-service candidates.

4. The petitioner applied for consideration of her candidature as in-service candidate and in pursuance of the notification, written examination was conducted on 13.01.2020. The petitioner participated in the written examination and according to her, she has done exceedingly well in the examination. The results of the examination were published on 16.03.2020, but the petitioner's name did not find a place in the list published. On enquiry made, the petitioner came to know that No Objection Certificate (NOC) issued by her Department was not in proper format, as required by the 2nd respondent board.

5. According to the petitioner that No Objection Certificate (NOC) is required from the department for the Board to consider the candidature of the in-service candidate against 20% quota. According to the petitioner, she has uploaded the Certificate (No Objection Certificate) as per the directives of the 2nd respondent Board. But later on, she had been told that it was not in proper format. Thereafter, the petitioner approached her superior Officer and requested for No Objection Certificate in proper format and on the basis of her request, the Certificate was issued on 08.04.2020 and the same was forwarded to the 2nd respondent. Since there was no action forthcoming, the petitioner is before this Court.

6. Counter affidavit has been filed on behalf of the 2nd respondent. In the counter affidavit, it is stated that according to the Information Brochure, the following is stipulated for departmental candidates.

"The Departmental candidates should obtain a NOC in the prescribed format from the Head of Unit/ Office/ competent authority and it should be uploaded while applying online application

(Specimen NOC is available in Annexure.VI)“

7. Instead of uploading the Certificate in proper format as stipulated above, the petitioner appeared to have uploaded the proceedings of the Superintendent of Police dated 29.03.2019. However, she was provisionally allowed to participate in the written examination held on 13.01.2020. Further, the petitioner was also given another opportunity to upload the certificate on or before 21.02.2020. The petitioner was also informed through e-mail and communicated to her mobile phone informing her to submit proper NOC before the last date.

8. According to the counter affidavit, despite of the opportunity given to the petitioner, she failed to submit the mandatory No Objection Certificate in the prescribed format before the cut off date. Therefore, her results were withheld.

9. Learned counsel for the petitioner would submit that the petitioner cannot be faulted with for not uploading the Certificate in proper format because of the fact that her superior, Superintendent of Police, had issued NOC containing the information as required by the Board and in any event, subsequently on finding that the Certificate issued by him was not in proper format, another Certificate was issued in the required format on 08.04.2020 and the same was also forwarded to the 2nd respondent Board. In the circumstances, the denial of declaration of the result and withholding of the same, is opposed to fair play and good conscience. According to the learned counsel because of the non-declaration of the result, the petitioner has been prevented from participating in the process of further selection namely, Physical Measurement Test/ Endurance Test/ Physical Efficiency Test/ Certificate Verification.

10. On the other hand, the learned Special Government Pleader appearing for the respondent Board would submit that if the petitioner's case is considered favourably by this Court, it would only open the flood gate to other disqualified candidates and it will also unnecessarily hinder the selection process. Therefore, the learned Special Government Pleader would submit that the writ petitioner is liable to be dismissed.

11. Considered the submissions of the learned counsels. Perused the pleadings and the materials placed on record.

12. The non uploading of the No Objection Certificate is admittedly, the only objection for not evaluating the performance of the writ petitioner is not entitled for the relief.

13. The above narrative would disclose that the petitioner being a subordinate police officer, belonging to the last rank of police, was not to be blamed when her Superior Officer issued No Objection Certificate in a particular form. In any event, it is not in dispute that the NOC issued by the Officer contained relevant information like the petitioner was not facing any departmental charges etc. However, she has obtained No Objection

Certificate from her Superior Officer on being told that NOC is not in particular form and uploaded the same, in proper format at once. In her position, she cannot insist on the Certificate being issued expeditiously to her Superior Officer.

14. Moreover, the candidature of the petitioner cannot be rejected only on such simple inadvertent discrepancy committed by the Department. Even assuming that the production of incorrect NOC was a mistake on the part of the petitioner, nevertheless the aspiration of a police constable towards her career progress through competitive examination cannot be set at nought on such negligible shortcoming.

15. The petitioner, being an in-service candidate has a right to participate in the selection against departmental quota fixed by the respondents. Her right to participate includes her right to be considered fairly and equitably. Although the Board cannot be faulted with either, for not evaluating the written examination papers of the petitioner, yet when the No Objection Certificate was uploaded subsequently in the required format, the Board ought to have reconsidered its decision on its own as withholding of the result of the petitioner was only on the ground of non-production of the No Objection Certificate in proper format. Such simple discrepancy, in the opinion of this Court, is required to be ignored and overlooked for advancing the principles of fair play and good conscience.

16. In the above circumstances, the Writ Petition is allowed and the rejection order dated 16.03.2020, rejecting the candidature of the petitioner is set aside and the respondents are directed to declare the written examination results of the petitioner held on 13.01.2020 and in the event of the petitioner becoming successful in the written examination in her category, the respondents are further directed to allow the petitioner to participate in the next stage of selection namely, Physical Measurement Test/ Endurance Test/ Physical Efficiency Test/ Certificate Verification.

17. The respondents are directed to pass appropriate orders in this regard within a period of one week from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar
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Sub Assistant Registrar

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To

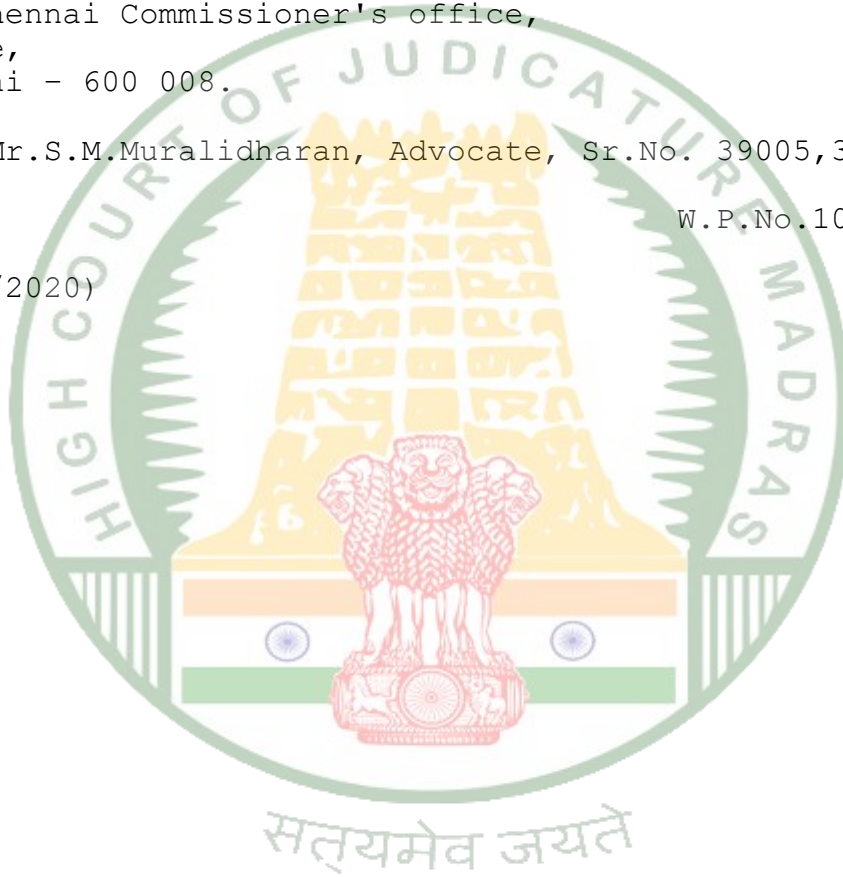
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+2ccs to Mr.S.M.Muralidharan, Advocate, Sr.No. 39005,39004

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NRL(CO)
RMP(11/12/2020)



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