

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 17.12.2020

Pronounced on : 23.12.2020

CORAM :

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.14116 of 2020

V.A.Ashok Kumar

... Petitioner

-Vs-

1.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai 600 004.

2.The Member Secretary,
The T.N.Uniformed Services Recruitment Board,
Office of Commissioner of Police, Old Campus,
Pantheon Road, Egmore,
Chennai 600 008.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to consider the petitioner's Application No.1000233489 dated 30.03.2019 for appointment in the back squad category for the recruitment of Grade II Police Constable, Grade II Jail Warder and Fireman for the year 2019 in the ongoing recruitment process under sports quota and most backward community in the light of petitioner's representation dated 26.02.2020 and appoint the petitioner in any of the post according to the order of preference specified in the petitioner's application within the timeframe to be fixed by this Court.

For Petitioner : Mr.V.Vasantha kumar

For Respondents : Mr.V.Kathirvelu, SGP

O R D E R

This writ petition has been filed to direct the respondents to consider the petitioner's Application No.1000233489 dated 30.03.2019 for appointment in the back squad category for the recruitment of Grade II Police Constable, Grade II Jail Warder and Fireman for the year 2019 in the ongoing recruitment process under sports quota and most backward community in the light of petitioner's representation dated 26.02.2020 and appoint the petitioner in any of the post according to the order of preference specified in the petitioner's application.

2. The petitioner applied for recruitment to the post of Grade II Police Constable, Jail Warder and Fireman, in response to the notification issued by the second respondent Board on 30.03.2019. The petitioner while claiming appointment on merits, has also claimed consideration against Sports Quota as he has participated in the national Kabaddi competition on behalf of the University during the period from 19.12.2018 to 23.12.2018 where he had undertaken his Under Graduate Course. The petitioner appeared for the written examination held on 25.08.2019. Subsequently, the petitioner was informed on scrutiny of the online application that he had uploaded Form III Sports Certificate without mentioning the date of participation in the event in support of his claim seeking consideration against Sports Quota. However, he was provisionally permitted to appear by accepting the particulars given by the petitioner. The petitioner was thereafter informed to submit proper sports certificate on or before 05.09.2019 and failure to submit proper certificate would forfeit the petitioner on claiming any consideration against sports category.

3. According to the petitioner, he had not noticed the e-mail sent by the Board, but in the mean time, he also attended Physical Measurement Test and Certificate Verification which was held on 07.11.2019. Thereafter, the petitioner was instructed to appear for Physical Efficiency Test on 11.11.2019 and again on 21.11.2019 for verification of original certificates. Finally, the petitioner was informed that his sports certificate was not in proper format. Therefore, he was found ineligible to be considered against Sports Quota and his consideration was thereafter converted into a general category.

4. At this, the petitioner approached the College where he had studied and finally obtained the sports certificate mentioning the date of participation and submitted the same to the authorities. In the meanwhile, since the date was already over, the petitioner was not considered against Sports Quota and therefore, he is before this Court.

5. Mr.M.Vasantha Kumar, learned counsel for the petitioner submitted that now the certificate has been properly issued and the petitioner has secured 31 marks overall out of cut off marks prescribed for persons claiming consideration under Sports Quota. A simple mistake of not uploading the certificate within the time stipulated ought not to deprive the petitioner's right, if he is otherwise eligible for appointment to the Police Force. According to the learned counsel, the College has issued the certificate declaring the sports certificate issued to him as a genuine one and also mentioned the period of participation in the national competition. That being the case, the petitioner became fully eligible today for appointment.

6. Per contra Mr.V.Kathirvelu, learned Special Government Pleader appeared for the respondents admitted the fact that the petitioner has secured 31 marks over all. It is also admitted that 31 is the cut off mark for appointment to the Police Force against Sports Quota in the present selection in respect of the petitioner's category. However, despite the said fact, the learned Special Government Pleader would object to grant of any relief stating that as per paragraph IX A (5) of the notification and in paragraph 7 (I)(i) of the Information Brochure, the following is stipulated:

"Candidates applying under 10% Sports Quota should fulfill all the norms prescribed for open candidates. In addition, the candidate is required to produce Form-I or Form-II or Form-III for the approved 15 games / sports for an event held within 5 years preceding the date of notification i.e., from 06.03.2014 to 06.03.2019."

7. The learned Special Government Pleader would submit that in the light of the above Information, the petitioner having failed to fulfill all the norms, he cannot be considered against Sports Quota and therefore, he was considered against general category. But in that category, the petitioner did not measure upto the cut off marks prescribed in the said category. The learned Special Government Pleader ofcourse would agree that the game Kabaddi for which the petitioner represented at the National level, is one of the games approved by the relevant Government Orders by the Department. He submitted that the fact of the petitioner allowed to appear in all the stages of selection was without prejudice to his rights in the writ petition.

8. According to the counter affidavit, the cut off mark for MBC general category was 48 marks and the petitioner was considered against the said category in the absence of proper sports certificate. The petitioner having secured only 31 marks, therefore became ineligible for appointment against MBC General Category. Therefore, he would submit that the petitioner does not deserve any indulgence from this Court.

9. The only objection of the second respondent Board against the selection of the petitioner is that the sports certificate has not been in proper format and not uploaded before the time stipulated by the Board. The fact that the petitioner has secured 31 marks which is the cut off mark for sports category candidates, is admitted. In which event, the petitioner has selected himself on his own right against the quota claimed by him. Unfortunately, the University which issued the Certificate and which was not uploaded, cannot be allowed to result in

deprivation of valuable right of the petitioner to gain employment in Police Force, particularly, when the petitioner was admittedly secured enough marks for appointment in the sports category. In any case, as on date, the petitioner has obtained proper sports certificate fulfilling the norms as prescribed in the notification and there cannot be any further impediment to consider the candidature of the petitioner, in the light of the subsequent development.

10. No doubt that the Recruitment Board is expected to scrupulously follow all the norms or otherwise the Board would have to face similar claims even after the conclusion of the recruitment process from many of the failed candidates. Nevertheless, while appreciating the said scenario, the case of this nature, cannot be negated only because there may be other claims in future by the unsuccessful candidates. This Court is concerned only with the person agitating his right and the right of the petitioner has to be decided on the basis of enforceability of his rights, but cannot be on the basis some future claims that may arise if any decision is rendered in favour of the petitioner on such consideration. Such extraneous consideration is a matter of speculation and on that score, the claim of the petitioner herein, cannot stand negated. When this Court is informed that the petitioner has secured enough marks for being considered for appointment under Sports category, no other consideration should come into play in denying the eventual appointment of the petitioner, in the circumstances of the case.

11. In the light of the above, this Court is of the view that the petitioner has made out a case for grant of relief. Therefore, the respondents are directed to consider the claim of the petitioner against Sports category on the basis of the certificates produced by him or ought to be produced by him and on such consideration, if the petitioner is otherwise fit for appointment, pass appropriate orders in that regard, within a period of four weeks from the date of receipt of a copy of this order.

12. With the above direction, this writ petition is allowed. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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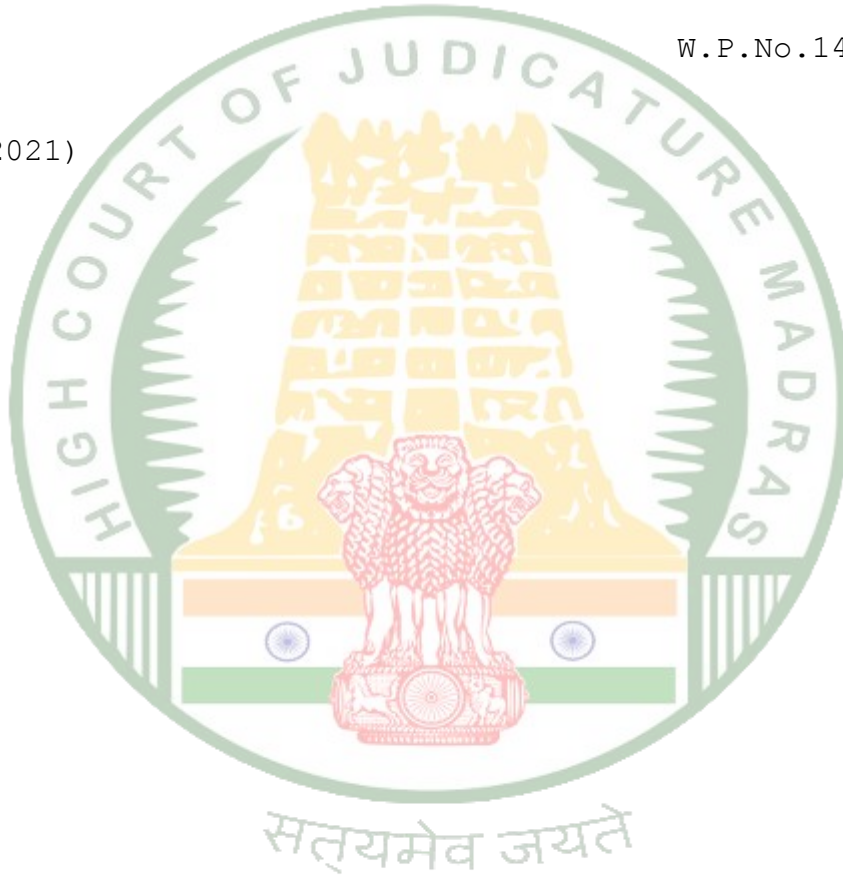
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