

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.16693 of 2019

ORDER

This writ petition is filed seeking the following relief:

“to issue a writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 5th respondent in not following the selection procedure contemplated in G.O.Ms.No.74, Youth Advancement Tourism and Culture (Sports) Department dated 09.08.2012 issued by the 2nd respondent for the post of Stipendiary Cadet Trainee (SCT) Sub Inspector of Police pursuant to the Notification Rc.No.89/Rect./ Admn-1/2018, dated 31.05.2018 as bad, arbitrary, illegal and violative of Articles 14, 19 and 21 of the Constitution of India and consequently direct the respondents to provide 2% of reservation to the Meritorious Sports Persons by implementing the guidelines issued under G.O.Ms.No.74, Youth Advancement, Tourism and Culture (Sports) Department, dated 09.08.2012 and Para 21 B (iii) of Notification dated 31.05.2018 in the interest of Justice.”

Heard Sri C.Damodar Reddy, learned counsel appearing for the petitioners and Sri M.V.Rama Rao, learned Standing Counsel appearing for the 5th respondent.

It is the case of the petitioners that they are meritorious sports persons. As per the notification, 2% of the posts are reserved in favour of meritorious sports persons. Since the respondents are not implementing G.O.Ms.No.74, dated 9.8.2012, they have filed the present writ petition.

During pendency of the writ petition, I.A.No.2 of 2019 is filed seeking amendment of the prayer and the same is ordered today *vide* separate order.

Learned counsel appearing for the petitioners contended that 2nd petitioner is a meritorious sports person and also an Ex-service man and he served in the Indian Army as Jawan from 06.03.2000 to 30.06.2019. But, his case was not considered under Ex-servicemen quota on the ground that as per the notification dated 31.5.2018, Ex-servicemen were supposed to be relieved within one year from the date of notification. At the time of issuance of the notification, the 2nd petitioner was serving the Indian Army and discharging his duties in Jammu and Kashmir and he should have been discharged from the Indian Army by 31st March, 2019. Due to the surgical strikes, the 2nd petitioner could not be discharged from the Indian Army within the time stipulated in the notification and he was discharged from duty on 30.06.2019. It is further contended that the 2nd petitioner has submitted his application through proper channel after obtaining 'No Objection Certificate'. But the respondents have not considered the case of the 2nd petitioner on the ground that he was discharged from the Indian Army after expiry of one year from the date of notification. It is prayed that appropriate orders be passed in the writ petition directing the respondents to consider the case of the 1st petitioner under meritorious sports persons quota by strictly following G.O.Ms.No.74, dated 9.8.2012 and further directing the respondents to consider the case of the 2nd petitioner under Ex-servicemen quota.

Learned Standing Counsel appearing for the respondents contended that as far as 1st petitioner is concerned, in the notification, it is clearly mentioned that the respondents would follow only marks and nowhere it is stated that they would follow G.O.Ms.No.74, dated 9.8.2012. Since the 1st petitioner has not secured the marks as set out in the notification, his case was not considered. Insofar as the 2nd petitioner is concerned, his case could not be considered under Ex-servicemen quota as he was discharged from the Indian Army after one year from the date of notification.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that insofar as the 1st petitioner, his case cannot be considered under meritorious sports quota, as he has not secured the marks stipulated in the notification. Hence, this Court is not inclined to grant any relief to the 1st petitioner.

As far as the 2nd petitioner is concerned, his claim under meritorious sports quota is also rejected. However, his case can be considered under Ex-servicemen quota. As his case was rejected on the ground that he could not be relieved from the Indian Army by 31.3.2019 due to surgical strikes, this Court had directed the learned Assistant Solicitor General to get instructions as to whether the Army Personnel were relieved during the period of surgical strikes or not. Learned Assistant Solicitor General had produced the proceedings dated 20th December, 2019, wherein the

Commanding Officer, 177 Medium Regiment, clarified that the Army Personnel could not be discharged from the Indian Army due to the surgical strikes and at the relevant point of time, the 2nd petitioner was discharging his duties in Jammu and Kashmir. In view of the said clarification, this Court is of the view that the case of the 2nd petitioner can be considered under Ex-servicemen quota.

Accordingly, the Writ Petition is allowed in part. The respondents are directed to consider the case of the 2nd petitioner for appointment to the post of Sub-Inspector of Police under Ex-servicemen quota with all consequential benefits. In respect of the 1st petitioner, the Writ Petition is dismissed. No costs.

Miscellaneous petitions, pending, if any, shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Date:07.01.2020
rkk