

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on 23.12.2020

Order delivered on 05.02.2021

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.17094 of 2020

D.Suman

..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:

Writ Petition filed under Article 226 of the Constitution of India praying Writ of Mandamus directing the respondents to consider the petitioner application bearing enrolment No.0106118 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 the petitioner's representation dated 25.09.2020 and appoint the petitioner in any of the post according to the order of preference specified in the petitioner's application within the time frame to be fixed by this Hon'ble Court.

For Petitioner

: Mr.V.vasanthakumar

For Respondents

: Mr.V.Kathirvelu,
Special Government Pleader

O R D E R

The matter is taken up through web hearing.

This Writ Petition has been filed to issue a Writ of Mandamus directing the respondents to consider the petitioner application bearing enrolment No.0106118 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 the petitioner's representation dated 25.09.2020 and appoint the petitioner in any of the post according to the order of preference specified in the petitioner's application within the time frame to be fixed by this Court.

2. The petitioner, in response to the notification issued by the 2nd respondent Board in 2019 applied for consideration for recruitment to the post of Grade-II Police Constable, Grade-II Jail Warder and Fireman. According to the petitioner, he opted for Grade-II Police Constable, Jail Warder and Fireman in the order of preference. He belongs to Most Backward Class community and also claimed consideration under Sports quota.

3. In pursuance of his application, he had appeared in the written examination held on 25.08.2019. However, on scrutiny of his application, the petitioner was informed that he had uploaded, the sports certificate without mentioning the date of participation in the events and therefore, the said certificate could not be considered to be a valid one, conferring the benefit of sports quota to him.

4. While matter stood thus, the petitioner was provisionally selected and appeared in the next stage of selection for physical measurement test and certificate verification. The petitioner appeared for the physical measurement test and the verification of certificates also. However, the petitioner was further informed that since he did not upload the sports certificate in proper format with all the details, he was only treated as a general category. When this fact was informed to the petitioner during the course of the selection through e-mail, he was not aware of the email communication. Thereafter, on learning about the same, he approached the Institution where he studied his Under-graduate course and obtained proper certificate from the Institution containing the missing details. In the said circumstances, he submitted a representation to consider his claim for recruitment under sports category. As there was no response from the respondents, he is before this Court.

5. Mr.V.Vasanthakumar, learned counsel for the petitioner would submit that the petitioner is a Member of the Kabaddi Team which participated in the South Zone Inter University Tournaments held during 19.12.2018 to 23.12.2018. Unfortunately, when the form was uploaded, it did not contain the date of participation and subsequently, it was rectified and submitted along with the representation. But as per the information from the Board, he was only considered against the general category. According to the learned counsel, if the petitioner is considered against sports category, he has secured enough marks which would secure him employment in Police Force. According to the learned counsel that the University where the petitioner had studied has issued a Certificate that the Sports Certificate issued to him was genuine. Learned counsel submitted that in identical matter in respect of the same Institution and also in respect of the same Sports Kabaddi, this Court has allowed the writ petition by order dated 23.12.2020 in W.P.No.14116 of 2020.

6. Mr.V.Kathirvelu, learned Special Government Pleader appearing for the respondents opposed grant of relief to the petitioner on the ground that it is entirely the fault of the petitioner in not having uploaded the certificate in a proper format. Having been careless in not uploading the certificate containing all the details, it is not open to the petitioner to seek indulgence of this Court for his consideration after the selection was over.

7. This Court, as submitted by the learned counsel for the petitioner, considered similar claim on behalf of the petitioner therein and objections from the side of the respondents. In the above writ petition also identical issue had arisen in respect of the same sports (Kabaddi) and in that case, it was admitted on behalf of the respondents that the petitioner had secured the required cut off marks being considered against sports quota but had not secured enough marks in general category and therefore, he was not selected. In that context, the said writ petition, viz., W.P.No.14116 of 2020, was heard and allowed as under in paragraph Nos.10 and 11.

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 negatived 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."

8. Although, this Court finds that no counter affidavit has been filed, but a detailed objections on behalf of the respondent through Special Government Pleader were heard. However, in the light of the above decision of this Court very recently allowing identical claim in respect of the same selection, this Court has to necessarily follow the said decision in dispensing uniform justice. The Writ Petition is therefore, disposed of as under:

i) The respondents are directed to accept the certificate produced or to be produced by the petitioner by permitting him to participate in the certificate verification and any other stage of selection at the date to be fixed by the 2nd respondent Board if the petitioner was not already allowed to participate till the final stage of the selection.

ii) On such participation of the petitioner and if the marks secured by him are sufficient to consider him against the sports quota and if the petitioner is otherwise fit for the appointment, the respondents are directed to grant appointment to the petitioner on the basis of his marks secured in the written examination and his performance in the other stages of selection.

iii) The 2nd respondent or the competent authority is directed to pass appropriate order in this connection within a period six weeks from the date of receipt of a copy of this order.

No costs.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

vsi

To

1. The Director General of Police,
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