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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2021

CORAM :

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.A.No.3978 of 2019

K.Hariharan

.. Appellant / Petitioner

Vs.

1. The Tamil Nadu Uniform Service
Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai - 600 008.
2. The Director General of Police/Director,
Fire & Rescue Services,
No.17, Rukmani Lakshmipathy Road,
Egmore, Chennai-600 008.

.. Respondents/Respondents

Prayer : Writ Appeal filed under clause 15 of the Letters Patent Act against the final order dated 19.03.2019 made in W.P.No.28122 of 2018.

Prayer in W.P.No.28122 of 2018: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent herein to consider the case of the petitioner under 10% reservation meant for wards/dependants of the department or in the alternative to confer the post Grade-II constable (AR) as per the marks secured by the petitioner irrespective of the order preference made in the application.

For Appellant	:	Mr.V.Neethidurai
For Respondents	:	Mr.C.Jayaprakash, State Government Counsel



JUDGMENT

(Judgment was delivered by PUSHPA SATHYANARAYANA, J.)

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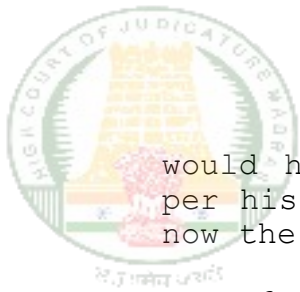
This is an intra-Court appeal filed against the order passed by the learned Single Judge in W.P.No.28122 of 2019 dated 19.03.2019.

2. According to the appellant/writ petitioner, in response to the notification issued by the respondents, he applied and exercised option for the post of Fireman alone. His father was a retired Station Officer of the Fire and Rescue Department, and he is entitled for 10% wards quota. He secured 73 marks out of 100 marks in the selection process. He was not selected for the post of Fireman. Since he was eligible for the other two posts also, i.e., Grade II Police Constable (AR) and Grade II Jail Wardens, he submitted a representation dated 14.10.2018. He instituted W.P.No.28122 of 2018 seeking a direction to the first respondent to consider his case under 10% reservation meant for wards/dependents of the Department or in the alternative to confer the post of Grade II Constable (AR) as per the marks secured by him irrespective of the order of preference made in the application.

3. The learned Single Judge, after hearing both the parties dismissed the writ petition, questioning which, the appellant/writ petitioner is before us.

4. The learned counsel for the appellant submitted that in view of the judgment of the Division Bench of this Court in W.A.(MD)No.1241 of 2017 dated 13.02.2018 and the Review Application filed against the said order, based on the liberty granted by the Hon'ble Supreme Court, in Review Appln.No.192 of 2018 and the order passed therein on 30.01.2019, the appellant did not insist the prayer for 10% quota, but sought the second limb of the prayer, which was not considered by the learned Single Judge. The learned counsel for the appellant submitted that since the persons secured less marks than that of the writ petitioner got selected for the post of Grade II Police Constable, he may be considered for appointment to the said post, though he only exercised the option for Fireman.

5. Per contra, the learned Government Counsel appearing for the respondents would submit that if a candidate exercised only one option and could not be selected for the said category, in terms of G.O.Ms.No.968, dated 03.10.2001, he will lose the opportunity of appointment, though he is eligible for other posts as per his merit. It is his submission that had the writ petitioner / appellant been exercised the other options, he



would have been considered for any one of those two posts, as per his merit. Having failed to exercise the other two options, now the petitioner cannot seek indulgence from this Court.

6. The facts are not controverted by either side. The writ petitioner himself categorically admitted that he had applied for the post of Fireman. But his only defence is that the Division Bench judgment of this Court quashing the 10% quota meant for wards/ dependents of the personnel of the Department cannot be given retrospective effect and his plea for selection for the other two posts, for which, he did not exercise option may be considered sympathetically.

7. The learned Single Judge after adverting to the judgment of the Division Bench of this Court in W.A.(MD)No.1241 of 2017 dated 13.02.2018, the order dated 30.01.2019 passed in Review Appln.No.192 of 2018, G.O.Ms.No.968, dated 03.10.2001 and the rules position, rejected the prayer of the petitioner. In fact, the learned Single Judge also made a comparison between the application of the writ petitioner and one candidate by name M.Suresh Kumar to arrive at the aforesaid conclusion that only if the candidates exercised the available options, they are entitled to be considered for the next post in the order of merit.

8. When the order of the learned Single Judge is in tune with the judgments of this Court and also in consonance with the rules, we do not find any infirmity in the said order and there is no merit in the appeal. Accordingly, this writ appeal is dismissed as devoid of merit. There shall be no order as to costs.

Sd/-
Assistant Registrar(CCC)

// True Copy//

Sub Assistant Registrar

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To

1. The Tamil Nadu Uniform Service
Recruitment Board,
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2. The Director General of Police/Director,
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+1cc to the Government Pleader, S.R.No.33290

W.A.No.3978 of 2019

RR(CO)
SU(23/08/2021)