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W.P.(MD)No.3102 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON:	22.02.2021
DELIVERED ON:	29.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD)No.3102 of 2020

and W.M.P. (MD) No.2642 of 2020

(Through Video Conference)

- 1) M.Mohammed Asif
- 2) A.Sultan Abubakker Sithik
- 3) A.Navaskhan
- 4) M.Surulimasthan
- 5) S.Mohaideen Abdul Kather Jailani
- 6) N.Ansar Ahammed
- 7) M.Frose
- 8) A.Ameer Khan
- 9) A.Abdul Lathif
- 10) N.Mohamed Rizwan
- 11) J.Ameer Batcha ... Petitioners

Vs

- 1) Tamil Nadu Uniformed Services Recruitment Board,
Rep. By its Member Secretary,
Egmore, Chennai 600 008



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W.P(MD)No.3102 of 2020

2) The Director General of Police,
Beach Road,
Chennai 600 004

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration, to declare the provisional selection list for the post of Grade II Police Constable (TSP), Jail Warder 2019 issued by the respondent No.1 as illegal insofar as not filling up the 52 BC(Muslim) Backlog vacancies and consequently for a direction, directing the respondents to select and appoint the petitioners in the post of Grade II Police Constable under BC (Muslim) Category based on their marks within the time period stipulated by this Court.

For Petitioners : Mr.T.Lajapathi Roy

For Respondents : Mr.K.Chellapandian,
Additional Advocate General

O R D E R

All the petitioners herein had participated in the Common Recruitment process for the posts of Grade II Constables, Grade II Jail Warders and Fireman, pursuant to the notification, dated 08.03.2019 for 8826 plus 62 backlog vacancies. The backlog vacancies for the Backward Class / Muslim [BC(M)] Committee was



W.P(MD)No.3102 of 2020

62. The grievance of the petitioner in the present writ petition is that the respondents had, without filling the 52 backlog vacancies for BC(M), out of 62, had released the provisional selection list dated 04.02.2020 and therefore, have challenged the provisional list.

2. The learned counsel for the petitioners submitted that under Section 27(F) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, the backlog vacancies should be filled up first and therefore, the present procedure adopted by the Recruitment Board in not filling the 52 backlog vacancies first for BC(M), is illegal.

3. The learned Additional Advocate General appearing for the respondents submitted that the backlog vacancies for BC(M) requires to be filled first with the respective communities only and the 43 pending backlog vacancies relates to BC(M) women. Since the current recruitment pertains only to Tamil Special Police (T.S.P) men, no vacancies were notified for T.S.P.(women) and hence, there is no infirmity in the selection process.



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4. I have given careful consideration to the submissions made by the respective learned counsels.

5. As per G.O.Ms.No.34 Backward Classes, Most Backward Class and Minorities Welfare Department dated 02.05.2010 the backlog vacancies requires to be filled first with the respective communities only. During the recruitment process, the total pending backlog vacancies for BC(M) was 62, out of which, 41 + 2 (male) was available for T.S.P. women. While the notified vacancies for T.S.P. men was 5962, there was no vacancy notified for T.S.P. women. Hence, the respondents had not filled up the backlog vacancies, 41 T.S.P. BC(M) women due to non-availbility of BC(M) women candidates. Accordingly, these vacancies had lapsed in the 2017-Common Recruitment, in accordance with G.O.Ms.No.34 dated 02.05.2010. It is stated that, since these backlog vacancies were carried forward for four consecutive recruitment years, they had lapsed. It is pertinent to point out here that, out of the total number of 62 backlog vacancies, 19 eligible candidates of BC(M) were identified for the



W.P(MD)No.3102 of 2020

post of Armed Reserve (AR) (women) and Jail warders and both these posts were filled with these backlog vacancies.

6. Learned counsel for the petitioners placed reliance on section 26(5) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 and submitted that the first respondent is duty bound to fill up the 43 vacancies earmarked for BC(M)women. This provision will not help the petitioners since, only when the rule of reservation of appointments does not apply, the turn so allotted shall go to the next male candidate. But in the instant case, the notified vacancies were only for T.S.P. men and no vacancy was notified for T.S.P. women. It is stated by the respondents that these backlog vacancies for T.S.P. BC(M) women was not filled up due to non-availability of women candidates and therefore, since the back log vacancies were earlier carried forward for four consecutive recruitment years, the same had lapsed in view of G.O.Ms.No.34 Backward Classes, Most Backward Class and Minorities Welfare Department dated 02.05.2010. I do not find any infirmity in the



W.P(MD)No.3102 of 2020

procedure adopted by the respondents and therefore, the petitioners may not be correct in relying upon section 26(5) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, in view of the factual situation.

7. Learned counsel also stated that in the earlier clauses in the notification issued in the year 2017, it was stated that in the event of non-availability of women candidates in the Armed Reserve, the same shall be filled through male candidates under the communal category, for which, the women candidate was unavailable. This submission again, is not in conformity with the factual position. In the common recruitment held in the year 2017, for 138 vacancies, only 24 BC(M) women vacancies were filled up for the post of A.R., due to shortage of 114 BC(M) women candidates. Further, out of the 276 BC(M) men vacancies, for the post of Armed Reserve, 114 unfilled posts of BC(M) women candidates were included. As such, there was no backlog vacancies for BC(M) women and men at the end of 2017 Common Recruitment.



WP(MD)No.3102 of 2020

8. For all the foregoing reasons, I do not find any infirmity in the procedure adopted in the recruitment process and therefore, no interference is required to the provisional selection list. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

Sd/-

Assistant Registrar(CS-II)

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Sub Assistant Registrar
(CS)

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Note In view of the present lock down owing to : COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To:

- 1) The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Egmore, Chennai 600 008
- 2) The Director General of Police,
Beach Road,
Chennai 600 004



W.P.(MD)No.3102 of 2020

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-14642[F]
dated 31/03/2021)

+1 CC to M/s.SPL GP (SR-14686[F] dated 31/03/2021)

Order made in

W.P. (MD)No.3102 of 2020

Dated:

29.03.2021

RK (22.04.2021) 8P 5C