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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WRIT PETITION NO.11459 OF 2014

AND

M.P.NOS.1, 4 & 5 OF 2014

M.Arul

... Petitioner

-Vs-

1. The Government Of India,
Ministry Of Home Affairs,
Police Division II,
(Resettlement And Welfare Directorate),
North Block, New Delhi - 110 001.
2. The Government of Tamilnadu,
Rep. by it Secretary,
Department Of Labour and Employment,
Fort St. George Chennai-600 006.
3. Tamilnadu Public Service Commission,
Rep. by the Chairman,
Frazer Bridge Road, V.O.C. Nagar,
Parktown , Chennai-600 003.
4. The Secretary,
Rep. By The Chairman,
Frazer Bridge Road, V.O.C. Nagar,
Parktown, Chennai- 600 003
5. Director General of Resettlement,
Ministry of Defence,
Government of India,
West block -iv, R.K. Puram,
New Delhi-110 066.

... Respondents

[R5 impleaded as per order dated 02.12.2014 in M.P.Nos.2 & 3 of 2014 in WP.11459 of 2014]



Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of, writs orders or directions and in particular issue a writ in the nature of Certiorarified Mandamus after calling for records relating to order bearing Ref.No.0515/Gen/DGR/Emp-3 dated 19.02.2013 issued by the Proposed 5th respondent and to quash the same as illegal, arbitrary and unlawful and consequently to direct the 3rd and 4th respondent to consider and appoint the petitioner as Junior Assistant under the 5% of the Ex-servicemen quota pursuant to the notification dated 27.04.2012 or 14.06.2013 within time frame stipulated by the Hon'ble Court and to pass such other orders or directions as this Honble Court may deem fit and proper and thus render justice.

[Prayer amended as per Order dated 02.12.2014 in M.P.Nos.2 and 3 of 2014 in WP No.11459 of 2014]

For Petitioner	:	Mrs.S.Keerthiga for M/s.Row & Reddy
For Respondents	:	Mr.K.Gunasekar [for R1 & R5] Special Government Pleader Mr.A.M.Ayyadurai [for R2] Government Advocate Mrs.G.Hema [for R3 & R4] Standing Counsel for TNPSC

O R D E R

The relief sought for in the present writ petition is to direct the respondents 3 and 4 to consider and appoint the writ petitioner as Junior Assistant under 5% quota granted to the Ex-Servicemen Category.

2. The petitioner states that he participated in the process of selection for appointment to the post of Junior Assistant, as per the notification issued for appointment of 4865 Junior Assistants in various Government Departments. The said notification provided reservation for Ex-Servicemen and the petitioner claims that he was a CRPF personnel and therefore, he must be provided with the benefit of Ex-Servicemen quota for selection to the post of Junior Assistant.

3. The only question to be considered in this writ petition is that whether the CRPF personnel is eligible to avail the Ex-servicemen quota as per the recruitment notification or not.



4. The learned Standing counsel appearing on behalf of the 3rd and 4th respondents mainly contended that the definition for Ex-Servicemen has been clearly stipulated. Even as per the Government of India, Ministry of Defence, Clarification dated 19.02.2013, Ex-CRPF personnels are not Ex-Servicemen and they cannot be considered for selection or appointment under the Ex-Servicemen quota. The counter affidavit filed by the respondents 3 and 4 also reveals that the Ex-Servicemen has been defined as under:

"(a) any person, who had served in any rank (whether as combatant or not) in the Armed Forces of the Union and has been released therefrom on or before the 30th June 1968 otherwise than by way of dismissal or discharge on account of misconduct or inefficiency; or

(b) any person, who had served in any rank (whether as combatant or not) in the Armed Forces of the Union for a continuous period of not less than six months after attestation and released therefrom between 1st July 1968 and 30th June 1979 (both days inclusive) otherwise than by way of dismissal or discharge on account of misconduct or inefficiency; or

(c) any person, who had served in any rank (whether as combatant or not) in the Armed Forces of the Union for a continuous period of not less than six months after attestation, if released between 1st July 1979 and 30th June 1987 (both days inclusive),-

(i) for reasons other than at his own request or by way of dismissal or discharge on account of misconduct or inefficiency; or

(ii) at his own request after serving for a period of not less than five years; or

(d) any person, who had served in any rank (whether as combatant or not) in the Armed Forces of the Indian Union and was released or retired on or after 1st July 1987 with any kind of pension from Defence Budget or released on or after 1st July 1987 on completion of specific terms of engagement with gratuity otherwise than at his own request or by way of dismissal or discharge on account of misconduct or inefficiency; or

(e) any person of the Territorial Army of the following categories, namely, pension holder for



continuous embodied service, person with disability attributable to military service and gallantry award winner retired on or after 15th November 1986; or

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(f) any person of the Army Postal Service who retired on or after 19th July 1989 directly from the said service without reversion to Postal and Telegraph Department with pension or who has been released on or after 19th July 1989 from such service on medical grounds attributable to military service or circumstances beyond his control and awarded medical or other disability pension; or

(g) any person discharged on or after July 1987 under Army Rule 13(3) III (V) for the reason that his service is no longer required and in receipt of pension;

Provided that in all cases, a Recruit is not an Ex-Servicemen;

Provided further that a person discharged before July 1987 under Army Rule 13 (3) III (V) for the reason that his service is no longer required is not an ex-serviceman;"

5. That apart, many such special forces are functioning and in the event of extending the benefit of Ex-Servicemen quota to CRPF, the other forces also will claim the same benefit and further, the Ex-Servicemen has been defined more specifically for the purpose of availing the quota for Ex-Servicemen. When the definition has been clarified by the Government of India, the petitioner is not eligible to avail the Ex-Servicemen quota, as he was an Ex-CRPF personnel.

6. That apart, the learned counsel appearing for the respondents 3 and 4 made a submission that the selection was conducted in the year 2014 and the petitioner was not within the zone of consideration and therefore, he was not selected. For all these reasons, the relief sought for in the present writ petition deserves no further consideration and accordingly, this Writ Petition stands dismissed. No Costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

sha/ars



To

1. The Government Of India,
Ministry of Home Affairs,
Police Division II,
(Resettlement And Welfare Directorate),
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2. The Secretary,
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Department Of Labour and Employment,
Fort St. George Chennai-600 006.
3. The Chairman,
Tamilnadu Public Service Commission,
Frazer Bridge Road, V.O.C. Nagar,
Parktown , Chennai-600 003.
4. The Chairman,
The Secretary,
Frazer Bridge Road, V.O.C. Nagar,
Parktown, Chennai- 600 003
5. Director General of Resettlement,
Ministry Of Defence,
Government of India,
West block -iv, R.K. Puram,
New Delhi-110 066.

+1cc to M/s.Row & Reddy, Advocate, S.R.No.34633

+1cc to Mr.K.Gunasekar, Advocate, S.R.No.34705

+1cc to the Government Pleader, S.R.No.34903

W.P.No.11459 of 2014
and
M.P.Nos.1, 4 & 5 of 2014

RSV(CO)
RLP(24/06/2022)