

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28-06-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP NO.26179 OF 2014

AND

MP NO.1 OF 2014

Dhiwar Ramesh Barik Rao

.. Petitioner

vs.

1. The Union of India,
Represented by its Secretary to Government,
Ministry of Home Affairs,
New Delhi.
2. The Director General,
Central Industrial Security Force,
CGO Complex,
Lodhi Road,
New Delhi - 110 003.
3. The Deputy Inspector General,
Central Industrial Security Force,
RTC Arakkonam,
Vellore District.
4. The Deputy Inspector General,
Central Industrial Security Force,
West Zone Head Quarters,
Kharghar,
Navi Mumbai - 410 210,
Maharashtra State.
5. The Deputy Commandant / ADM,
Central Industrial Security Force,
RTC Arakkonam,
Vellore District.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the fifth respondent dated 19.09.2014 in his Office Memorandum No.E-32017/ RTC(A)/ Adm/ Rect-Dvr/2014/6304 and quash the same and to direct the respondents to process the application and to permit the petitioner to participate in the recruitment process for the post of Constable/Driver 2014 and if found eligible issue appointment order.

For Petitioner : Mr.A.Mujibur Rahman

For Respondents : Mr.G.Ilangovan,
Central Government Standing Counsel.

O R D E R

The writ petition is filed questioning the order dated 19.09.2014 rejecting the candidature of the writ petitioner for direct recruitment to the post of Constable Driver.

2. The petitioner was initially appointed as Constable in Central Industrial Security Force (CISF) and now promoted to the post of Head Constable.

3. The grievance of the writ petitioner is that pursuant to the Recruitment Notification issued for selection to the post of Constable Drivers in CISF 2014 dated 02.08.2014, the petitioner submitted an application for direct recruitment. The candidature of the writ petitioner was rejected on the ground that the petitioner has involved in a criminal case, more specifically, under Sections 169, 103, 307 and 341 of IPC.

4. A criminal case was registered against the writ petitioner before joining as Constable in the CISF and he was subsequently acquitted by the Competent Criminal Court of Law, namely, Additional Sessions Judge-I, Ambajogai. In view of the fact that the Ministry of Home Affairs issued a circular stating that the candidates involved in a criminal case is not eligible for selection to the post of Constable Driver. In view of the abovesaid Circular issued by the Ministry of Home Affairs, the candidature of the writ petitioner was rejected by the respondents.

5. This Court is of the considered opinion that the petitioner was appointed as Constable in CISF before issuance of the Circular by the Ministry of Home Affairs dated 01.02.2012. In other words, at the time of selection of the writ petitioner as Constable in CISF, there was no impediment for selection, despite the fact that a criminal case was pending against the

writ petitioner during the relevant point of time. However, the Ministry of Home Affairs Office Memorandum No.F.No.I-45020/6/2010-Pers.II dated 01.02.2012 specified the criteria for considering the cases for selection against whom criminal cases were registered before submission of the application for various posts in the Central Armed Police Force (CAPF), which includes Central Industrial Security Force (CISF) also. Thus no action was taken against the writ petitioner even after his selection as Constable prior to the issuance of the Office Memorandum by the Ministry of Home Affairs.

6. The line of promotion to be granted to the writ petitioner is also not affected, as the petitioner has already been promoted as Head Constable. However, in respect of the direct recruitment to the post of Constable Driver, the terms and conditions stipulated are to be scrupulously followed by the Authorities Competent.

7. In the present case, based on the Office Memorandum issued by the Ministry of Home Affairs and considering the fact that a criminal case was registered against the writ petitioner, which was ended with an order of acquittal, his candidature was rejected by the Competent Authority.

8. Thus, this Court is of the opinion that the rejection of candidature of the writ petitioner was in accordance with the terms and conditions of the Recruitment Notification and as per the Office Memorandum issued by the Ministry of Home Affairs and therefore, there is no infirmity as such in respect of the reason stated in the order impugned.

9. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Svn

To

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Vellore District.

+1cc to Mr.A.Mujibur Rahman, Advocate, S.R.No.40853
+1cc to Mr.G.Ilangovan, Advocate, S.R.No.40803

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PM(CO)
PM/11/07/2022