



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.8068 of 2019

and

W.M.P. (MD) Nos.6373 & 6374 of 2019 & 15226 of 2020

WEB COPY

S.Balakrishnan

... Petitioner

vs.

1.The State of Tamil Nadu
rep.by the Secretary to Government
Personnel and Administrative
Reforms Department
Fort St.George, Chennai-600 009

2.Tamil Nadu Uniformed Services Recruitment Board
Rep.by the Member Secretary
No.807, P.T.Lee Chengalvaraya Naickar Maaligai
Annasalai, Chennai-600 002

3.The Director General of Police
Beach Road, Chennai-600 004

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus to call for the records pertaining to the impugned advertisement No.1/2019, dated 06.03.2019 for the common recruitment of Grade II Police Constable / Grade II Jail Warder / Firemen -2019 and quash the serial No.7 by fixing the date i.e. on 01.07.2019 as age limit as illegal and consequently direct the respondents to permit the petitioner to take part in the recruitment process of Grade II Police Constable / Grade II Jail Warder/Fireman-2019.

For Petitioner : Mr.P.T.Ramesh Raja

For Respondents : Mr.Veera Kathiravan
Additional Advocate General
assisted by Mr.A.K.Manikkam
Special Government Pleader

O R D E R

The recruitment notification for selection and appointment to the posts of Grade II Police Constable / Grade II Jail Warder / Fireman-2019 is under challenge in this writ petition.



2. According to the petitioner, the cutoff date fixed in the notification for age criteria is not proper and the date of notification i.e.06.03.2019 is to be fixed as the cutoff date for age criteria. However, the recruitment notification states the cutoff date as 01.07.2019 for age criteria.

WEB COPY

3. Fixing a cutoff date for selection is the prerogative of the employer. Such cutoff date cannot be challenged in a routine manner. As per the cutoff date, the petitioner is not eligible to participate in the selection process. The issues regarding fixing cutoff date has been elaborately considered by this Court, by order dated 25.04.2017 in W.P.(MD) Nos.2982 and 2081 of 2017 and the relevant paragraphs are extracted hereunder:

"16.In the case of **Shankar k. Mandal and others v. State of Bihar and others** reported in (2003) 9 SCC 519, the Hon'ble Supreme Court has made the position clear after taking support from earlier judgment in the following lines:

"What happens when a cut off date is fixed for fulfilling the prescribed qualification relating to age by a candidate for appointment and the effect of any non-prescription has been considered by this Court in several cases. The principles culled out from the decisions of this Court (See Ashok Kumar Sharma and Ors.v. Chander Shekhar and Anr. (1997 (4) SCC 18, Bhupinderpal Singh v. State of Punjab (2000 (5) SCC 262 and Jasbir Rani and ors. v. State of Punjab and Anr. (2002 (1) SCC 124) are as follows:

(1) The cut off date by reference to which the eligibility requirement must be satisfied by the candidate seeking a public employment is the date appointed by the relevant service rules;

(2) If there is no cut off date appointed by the rules then such date shall be as appointed for the purpose in the advertisement calling for applications; and

(3) If there is no such date appointed then the eligibility criteria shall be applied by reference to the last date appointed by which the applications were to be received by the competent authority."



17. In another judgment of the Hon'ble Supreme Court in the case of A.P. Public Service Commission, Hyderabad and another v. B. Sarat Chandra and others reported in (1990) 2 SCC 669 similar issue arose for consideration. Recruitment to the post of Deputy Superintendent of Police in 15 the State of Andhra Pradesh where Rule 5 of Andhra Pradesh Police Service Rules which is similar to the Rule in Tamil Nadu as regards qualifications. A candidate who was not qualified as on the date of 1st July of the year of recruitment claimed that the relevant date ought to be the date of preparation of list of selected candidates. Though the Tribunal accepted the contention of the candidates, the Hon'ble Supreme Court allowed the Civil Appeal and held as follows:

"The Tribunal in fact does not dispute that the process of selection begins with the issuance of advertisement and ends with the preparation of select list for appointment. Indeed, it consists of various steps like inviting applications, scrutiny of applications, rejection of defective applications or elimination of ineligible candidates, conducting examinations, calling for interview or viva voce and preparation of list of successful candidates for appointment. Rule 3 of the Rules of Procedure of the Public Service Commission is also indicative of all these steps. When such are the different steps in the process of selection, the minimum or maximum age for suitability of a candidate for appointment cannot be allowed to depend upon any fluctuating or uncertain date. If the final stage of selection is delayed and more often it happens for various reasons, the candidates who are eligible on the date of application may find themselves eliminated at the final stage for no fault of theirs. The date to attain the minimum or maximum age must, therefore, be specific, and determinate as on a particular date for candidates to apply and for recruiting agency to scrutinise



WEB COPY

applications. It would be, therefore, unreasonable to construe the word selection only as the factum of preparation of the select list. Nothing so bad would have been intended by the Rule making authority."

Though the above case is relating to the minimum age, the principles of law laid down in the above judgment is 16 applicable to the present case.

18. In the case of **Mohd. Sartaj v. State of U.P.** reported in **AIR 2006 SC 3492** it has been held that eligibility/minimum qualification should be fulfilled on the date of recruitment. In the case before the Hon'ble Supreme Court no other date was fixed or prescribed by the Rules.

19. In the case of **State of Rajasthan v. Hitendra Kumar Bhatt** reported in **AIR 1998 SC 91** the Hon'ble Supreme Court has held as follows:

"A cut-off date by which all the requirements relating to qualifications have to be met, cannot be ignored in an individual case. There may be other persons who would have applied had they known that the date of acquiring qualifications was flexible. They may not have applied because they did not possess the requisite qualification on the prescribed date. Relaxing the prescribed requirements in the case of one individual may, therefore, cause injustice to others."

20. In view of the principles of law reiterated by the Hon'ble Supreme Court and the Rule 14(1) and Annexure II of Tamil Nadu Police Subordinate Service Rules, this Court is not inclined to accept the case of the petitioners. As pointed out by the Hon'ble Supreme Court and this Court earlier, it is a policy decision of the Government and the Executive to fix the cut-off 17 date having regard to the various considerations and the Court is expected to observe judicial restraint and cannot interfere casually merely



because some inconvenience is caused to individuals.

21. For all the above reasons, I do not find any merits in the Writ Petitions and hence, both the Writ Petitions are dismissed. No costs. Consequently, connected W.M.P. (MD) Nos. 2400 & 2401 and 1734 of 2017 are closed."

4. In view of the above principles laid down, the case of the petitioner deserves no merit consideration.

5. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2022
Sub Assistant Registrar (CS)

krk

To:

1. The Secretary to Government,
Personnel and Administrative
Reforms Department,
State of Tamil Nadu,
Fort St. George, Chennai-600 009.

2. The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
No.807, P.T. Lee Chengalvaraya Naickar Maaligai,
Annasalai, Chennai-600 002.

3. The Director General of Police,
Beach Road, Chennai-600 004.

+1 CC to M/s. SPL.GP. (SR-18360[F] dated 12/04/2022)

W.P. (MD) No.8068 of 2019

and

W.M.P. (MD) Nos.6373 & 6374 of 2019 &

15226 of 2020

11.04.2022

KS (CO)

RK(22/04/2022) 5P 5C