



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2022

CORAM

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.22709, 23402 & 23404 of 2022

and

**W.M.P(MD)Nos.16859, 16860, 16861, 17481, 17482, 17483,
17484 of 2022**

WP(MD)No.22709 of 2022 : -

1.S.Vijayakumar

2.R.Poornachandran

... Petitioners

v.

1.The Secretary, Ministry of Home Affairs,
Police Division II, North Block, New Delhi – 110001.

2.The Secretary, State of Tamil Nadu,
Department of Social Welfare,
Secretariat, Fort St.George, Chennai – 600 009.

3.The Secretary, State of Tamil Nadu,
State of Tamil Nadu, Department of Labour &
Employment, Secretariat, Fort St.George,
Chennai – 600 009.

4.The Additional Chief Secretary,
State of Tamil Nadu Home (Police-III) Department,
Secretariat, Chennai – 600 009.

5.The Director General of Police / The Chairperson,
Tamil Nadu Uniformed Services Recruitment Board,
Pantheon Road, Egmore,
Chennai – 600 008.



6.The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Pantheon Road, Egmore,
Chennai – 600 008.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order issued by the first respondent in his proceedings in GIRH/CHAIRMAN/2018-19/0714 dated 15.10.2018 confirming the order issued by the second respondent in her proceedings No.GIRH/ESDTP/2018-19/0007 dated 03.04.2018 and quash the same and consequently direct the respondents to reinstate the petitioner into service, regularise his service and to pay all monetary and attendant benefits within the time stipulated by this Court.

WP(MD)No.23402 of 2022 : -

1.S.Manoharan

2.R.Karthikeyan

3.S.Terence Febi Raj

... Petitioners

v.

1.The Secretary, Ministry of Home Affairs,
Police Division II, North Block, New Delhi – 110001.

2.The Secretary, State of Tamil Nadu,
Department of Social Welfare,
Secretariat, Fort St.George, Chennai – 600 009.



3.The Secretary, State of Tamil Nadu,
State of Tamil Nadu, Department of Labour &
Employment, Secretariat, Fort St.George,
Chennai – 600 009.

4.The Additional Chief Secretary,
State of Tamil Nadu, Home (Police-III) Department,
Secretariat, Chennai – 600 009.

5.The Director General of Police / The Chairperson,
Tamil Nadu Uniformed Services Recruitment Board,
Pantheon Road, Egmore,
Chennai – 600 008.

6.The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Pantheon Road, Egmore,
Chennai – 600 008.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned proceedings in Letter No.9308/Police-III/2020-5 dated 18.04.2022 on the file of the Respondent No.4 and consequentially the impugned Notification No.2/2022 dated 30.06.2022 on the file of the respondent No.6 and consequentially the impugned information brochure published in their official website on the file of the respondent No.6 and quash the same as illegal insofar as the 5% reservation of Ex-Serviceman and age relaxation of Ex-serviceman and consequently for direction directing the respondent Nos.4, 5 and 6 to extend the reservation benefits of 5% in Ex-Servicemen and age relaxation to Ex-Central Para-military Force Personnel in the light of the Office Memorandum No.27011/100/2012-R&W dated 23.11.2012 issued by the first respondent in the respondent No.6 Notification No.2/2022 for Common Recruitment dated 30.06.2022 for the post of Grade-II



Police Constables, Grade-II Jail Warders & Firemen within the time stipulated by this Court.

WP(MD)No.23404 of 2022 : -

P.Iyappan

... Petitioner

v.

1.The Secretary, Ministry of Home Affairs,
Police Division II, North Block, New Delhi – 110001.

2.The Secretary, State of Tamil Nadu,
Department of Social Welfare,
Secretariat, Fort St.George, Chennai – 600 009.

3.The Secretary, State of Tamil Nadu,
State of Tamil Nadu, Department of Labour &
Employment, Secretariat, Fort St.George,
Chennai – 600 009.

4.The Additional Chief Secretary,
State of Tamil Nadu, Home (Police-III) Department,
Secretariat, Chennai – 600 009.

5.The Director General of Police / The Chairperson,
Tamil Nadu Uniformed Services Recruitment Board,
Pantheon Road, Egmore, Chennai – 600 008.

6.The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Pantheon Road, Egmore, Chennai – 600 008.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings in Letter No.9308/Police-III/2020-5 dated 18.04.2022 on the file of the respondent No.4 and consequentially the



Impugned Notification No.2/2022 dated 30.06.2022 on the file of the respondent No.6 and consequentially the impugned Information Brochure published in their Official Website on the file of the respondent No.6 and quash the same as illegal in so far as the 5% Reservation of Ex-Serviceman and age relaxation of Ex-Serviceman and consequently for direction directing the respondents 4, 5 and 6 to extend the reservation benefits of 5% in Ex-Servicemen and age relaxation to Ex-Central Para-military Force Personnel in the light of the Office Memorandum No.27011/100/2012-R&W dated 23.11.2012 issued by the first respondent in the respondent No.6 Notification No.2/2022 for Common Recruitment dated 30.06.2022 for the post of Grade-II Police Constables, Grade-II Jail Warders & Firemen within the time stipulated by this Court.

For Petitioners : Mr.G.Karthik for Mr.T.Lajapathi Roy

For Respondents : Mr.D.Saravanan for R1

Mr.Veerakathiravan,

Additional Advocate General assisted by

Mr.A.K.Manikkam, Spl.GP for R2 to R6

ORDER

The petitioners had served in Border Security Force which is a central para military force. The petitioners aspire to join the post of Police Constable – I. TNUSRB has issued recruitment notification in this regard. The petitioners have applied in response thereto. Two issues arise before this Court. Whether



the petitioners are entitled to the benefit of Ex-servicemen quota and whether they are eligible for age relaxation?. The learned counsel for the petitioners relied on the Office Memorandum bearing No.27011/100/2012-R&W dated 23.11.2012 which states that the State/UT Governments concerned may extend suitable benefits to them on the lines of the benefits extended by the State/UT governments to the Ex-Servicemen of Defence Forces. It is relevant to note here that the aforementioned Office Memorandum was issued by the Director (Personnel), Ministry of Home Affairs, Police Division – II, Resettlement and Welfare Directorate).

2. There is no merit in this contention. As rightly pointed out by the learned Additional Advocate General, the Defence Ministry had issued a subsequent communication dated 19.02.2013 bearing No. 0515/Gen/DGR/Emp-3 holding that Ex-CAPF are not Ex-Servicemen and any benefits to be granted on the lines of ex-servicemen will be provided by the Resettlement and Welfare Directorate of Police Division of Home Ministry. This communication expressly refers to the earlier Office Memorandum issued by the Ministry of Home Affairs, Police Division – II, Resettlement and Welfare Directorate on 23.11.2012. In view of this stand taken by the Defence Ministry, the State of Tamil Nadu has taken a policy decision not to treat the Ex-CAPF personnel on par with ex-servicemen. This in my view falls entirely



within the realm of policy decision of the Government. It is relevant to note here that even the earlier Office Memorandum dated 23.11.2012 is advisory in nature. It only states that the State/UTs concerned may extend the suitable benefits to CAPF personnel on the lines of the benefits extended to Ex-servicemen of defence forces. It is for the State government to take a call in the matter and the petitioners do not have any legal right as such. Of course, it is open to them to move the Central or State Government to treat them on par with Ex-servicemen.

3.As regards the second issue, the petitioners are on a stronger wicket. My attention is drawn to G.O (Ms) No.1183, Home (Pol.3) Department, dated 11.12.2006. The relevant paragraphs read as under :

"i)The Ex-Personnel of the Central Para-Military Forces like Central Reserve Police Force, Central Industry Security Force, Border Security Force, Indo-Tibetan Border Police, etc., shall be given age concession upto a maximum age limit of 45 years for recruitment to the posts of (i) Sub Inspector of Police (Taluk Police/Armed Reserve/Tamil Nadu Special Police) and (ii) Grade II Police Constable, subject to the condition that their candidature shall be considered only for a period of three years after their date of discharge from their unit;

(ii)The Ex-Personnel of the Central Para-Military Forces, who have served as Drivers, Auto-Mechanics, Auto Electricians and Armourers, shall be exempted from Physical Measurement Test and Physical Efficiency Test in the recruitment to the post of Grade-II Police Constable alone."



4.I wanted to know from the learned Additional Advocate General if this G.O is holding good. Today, when the matter was taken up for disposal, the learned Additional Advocate General submitted that the said G.O is still holding good. Therefore, the second issue raised in this writ petition is answered in favour of the petitioners. While the petitioners do not have right right to be treated on par with Ex-servicemen, they are entitled to age concession as set out in G.O (Ms) No.1183, Home (Pol.3) Department, dated 11.12.2006.

5.WP(MD)Nos.22709 & 23404 of 2022 stand partly allowed. In view of the order passed in WP(MD)Nos.22709 & 23404 of 2022, no further orders are necessary in WP(MD)No.23402 of 2022. The petitioners in this writ petition are still serving in BSF and they have not even applied in response to the impugned recruitment notification. Hence, WP(MD)No.23402 of 2022 is disposed of. No costs. All connected miscellaneous petitions are disposed of.

30.11.2022

Index : Yes / No
Internet : Yes/ No
skm



WEB COPY

To

- 1.The Secretary, Ministry of Home Affairs,
Police Division II, North Block, New Delhi – 110001.
- 2.The Secretary, State of Tamil Nadu,
Department of Social Welfare,
Secretariat, Fort St.George, Chennai – 600 009.
- 3.The Secretary, State of Tamil Nadu,
State of Tamil Nadu, Department of Labour &
Employment, Secretariat, Fort St.George,
Chennai – 600 009.
- 4.The Additional Chief Secretary,
State of Tamil Nadu Home (Police-III) Department,
Secretariat, Chennai – 600 009.
- 5.The Director General of Police / The Chairperson,
Tamil Nadu Uniformed Services Recruitment Board,
Pantheon Road, Egmore,
Chennai – 600 008.
- 6.The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Pantheon Road, Egmore,
Chennai – 600 008.



WEB COPY



G.R.SWAMINATHAN, J.

skm

W.P.(MD)Nos.22709, 23402 & 23404 of 2022
and
W.M.P(MD)Nos.16858, 16859, 16860,
16861, 17480, 17481, 17482, 17483, 17484 of 2022

30.11.2022