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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.15176 of 2018

and

W.M.P. (MD)No.13714 of 2018

R.Baskaran

... Petitioner

vs

1. The Union of India,
represented by its Secretary to Government,
Ministry of Home Affairs,
New Delhi.
2. The Director General,
Border Security Force,
Head Quarters, Block No.10,
CGO Complex,
Lodhi Road, New Delhi - 110 003.
3. The Inspector General,
Frontier Head Quarters,
Border Security Force,
AFS Yelahanka,
Bangalore - 560 063.
Karnataka.
4. The Commandant,
162 Battalion,
BSF, BSF Campus,
Kainoor, Mulayam Post,
Thrissur District,
Kerala - 680 751.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the relating to the order passed by the third respondent, dated 07.11.2017 in his Memorandum No.Rect/CT(GD)-2015/Offer Appt/Ftr Odisha/2017/5770-72 and the order, dated 27.12.2017 in his Order No.Rectt/503(CT-GD)2015/Ftr HQ/17/6009-11 and quash the same and to direct the respondents to permit the petitioner to join duty as Constable GD in the Border Security Force with all benefits.



For Petitioner : Mr.M.Kannan, Advocate

For Respondents : Mr.S.Jayasingh, Advocate

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O R D E R

The petitioner is seeking to quash the impugned order, dated 07.11.2017 and the order, dated 27.12.2017 with a consequential prayer to direct the respondents to permit the petitioner to join duty as Constable GD in the Border Security Force with all benefit.

2. The petitioner belong to OBC category and a notification was issued for recruitment of the Constable GD in Central Armed Police Forces (CAPF) and Rifleman in Assam Rifle-2015 post. The petitioner submitted his application on 07.02.2015 through online mode. The petitioner underwent physical verification and completed all his formalities. Unfortunately, FIR has been filed in CR.No.50/2015. The contention of the petitioner is that while he was applying through online mode i.e., 07.02.2015 there was no FIR. Subsequent Criminal Case came to be registered on 16.02.2016. Therefore, the petitioner was not able to communicate to the respondents while he was applying for the post. During the interview, the petitioner has declared the pendency of the Criminal Case. The respondents have granted time to clear the Criminal case within a period of six weeks. The petitioner has taken an honest effort to complete the Criminal Case under Fast track Court on 11.10.2017. The case was ended up in payment of fine of Rs.500/- (Rupees Five Hundred only) and the fine is not a bar as per the Border Security Force Regulation. Therefore, the petitioner is seeking to direct the respondents to grant the appointment order.

3. The respondents have filed a counter affidavit stating that it is a Uniformed Service Force. There was a Criminal Case against the petitioner and hence the respondents have not considered the appointment order. Admittedly, an extension of time was granted to the petitioner to clear the Criminal Case. Since the time was lapsed, the petitioner was not considered. Hence the respondents prayed to dismiss the writ petition.

4. Heard Mr.M.Kannan, learned Counsel appearing for the petitioner and Mr.S.Jeyasigh, learned Counsel appearing for the respondents.

5. The contention of the petitioner is that the fine is not a bar for consideration to appoint in the Government Sector. The petitioner relied on the guidelines issued by the Government of India, Ministry of Home Affairs dated 01.02.2012, where it has been stated in Minor Offences list in serial number 2 that imposition of



fine in criminal case is not a bar for consideration for appointment and the relevant portion is extracted hereunder:

"Subject: Policy Guidelines for considering cases of candidates for appointment in CAPFs-pendency of criminal cases against candidates-the effect of:

2. Any offence as defined under the IPC or any other act of Central Government or State Government which is punishable only with fine without any imprisonment."

6. Therefore, this Court is of the considered view that the petitioner was imposed with punishment of fine of Rs.500/- (Rupees Five Hundred only) and it is not a bar to consider for appointment in Government Sector. The respondents have granted time to complete the criminal case within six months, but the case could not be completed within the stipulated time inspite of hearing the case before Fast Track Court. It is not the mistake of the petitioner and delay in criminal case is quite normal in the judiciary. Therefore this Court deems it fit to direct the respondents to issue appointment order to the petitioner.

7. Hence this Court directs the respondents to issue appointment order to the petitioner and the said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. With the above direction, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

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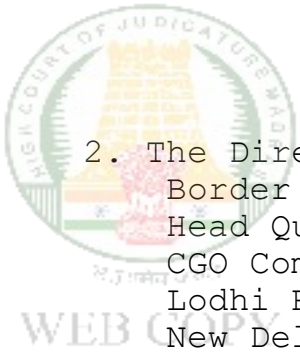
/ /2022

Sub Assistant Registrar(CS)

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 Secretary to Government,
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Ministry of Home Affairs,
New Delhi.



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+1 CC to M/s.M.KANNAN, Advocate (SR-12367[F] dated 16/03/2022)

+1 CC to M/s.S.JEYASINGH, Advocate (SR-12424[F] dated 16/03/2022)

Order made in
W.P. (MD) No.15176 of 2018
Date:15.03.2022

SA(30.03.2022) 4P 7C