



W.P.(MD)No.1942 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated :- 21.04.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)No.1942 of 2017

and

W.M.P(MD).No.1598 of 2017

S.Sriganesh

... Petitioner

Vs.

1.The State of Tamilnadu,
Rep.by its Secretary to Government,
Environment and Forest Department,
Fort St. George,
Chennai.

2.The Principal Chief Conservator of Forests,
9th Floor, Panagal Building,
Saidapet, Chennai-15.

3.Tamilnadu Forest Uniformed Services Recruitment Committee,
Rep. by its Chairman,
O/o. Principal Chief Conservator of Forests,
9th Floor, Panagal Building,
Saidapet, Chennai-15.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records on the file of the third respondent in connection with the impugned order of rejection passed by him in his proceedings in TNFUSRC/32888/2016 dated 23.12.2016 and quash the same as illegal and arbitrary and consequently direct the 1st and 3rd respondents to extend the benefit of 10% reservation for the wards as contemplated in G.O.Ms.No.834, Home (Police-III) Department, dated 10.09.2001 for recruitment to the post of police personnel and thereby consider the petitioner's case for appointment to the post of Forester/Field Assistant for the recruitment done in Advertisement No.1 of 2014 dated 22.12.2014 issued by the third respondent within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu
For Respondents : Mr.Veera Kathiravan
1 and 2 AAG Assisted by
M/s.Farjana Ghoushia

ORDER

This Writ Petition has been filed to quash the impugned order dated 23.12.2016 and consequently direct the respondents 1 and 3 to extend the benefit of 10% reservation for the wards as contemplated in G.O.Ms.No.834, Home (Police-III) Department, dated 10.09.2001 for recruitment to the post of police personnel and thereby consider the petitioner's case for appointment to the post of



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Forester/Field Assistant for the recruitment done in Advertisement No.1 of 2014 dated 22.12.2014 issued by the third respondent.

2. The petitioner is qualified as B.Sc. (Computer Science) and his father was a retired Assistant Conservator of Forests on 31.05.2015. The third respondent has issued advertisement in Advertisement No.1 of 2014 dated 22.12.2014, for filling the post of “Forester” for the 148 vacancies and 17 posts of Forester in Tamil Nadu Forest Plantation Corporation Limited and 16 posts of Field Assistants in “Arasu Rubber Corporation Limited”. The petitioner has made a representation to the authorities to extend the benefit of 10% reservation as done in the recruitment of Police Department applied to the wards of the serving and retired police personnel from the police department in view of the G.O.Ms.No.834, Home (Police-III) Department, dated 10.09.2001, but the respondent, has not taken any steps to consider the said representation. Hence, the petitioner had filed the present petition.

3. With regard to the issue of granting employment to the wards of the Environment and Forest Department, there is no provision for reserving to the



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wards of Environment and Forest Department staff.

4. The government has allotted 10% reservation for the wards of Police Personnel in G.O.Ms.No.834 Home (Police III) Department dated 10.09.2001, wherein in has been stated as under:

“10% quota under direct recruitment for dependents of the serving police personnel and the wards / dependents of retired, deceased and medically invalidated police personnel”

This has been subsequently amended as under:

“provided that 10% of the above 10% quota shall be filled up from among the dependents of the serving Ministerial Staff”

This constitutional validity of granting 10% reservation for wards was considered in W.A. (MD) No. 1241 of 2017 by Madras High Court and it has been held that the said G.O. is unconstitutional and the relevant portion is extracted hereunder:

13.The object behind the introduction of the rule may be laudable. No doubt, communal reservation is being followed. But it will not take away the vice affecting the character of the rule. Reservation based solely on the grounds of birth and descent are inherently unconstitutional. The Hon'ble Supreme Court had already declared it to be so. It is true that there was no challenge to the validity of the



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said rule. But then when an unconstitutional provision happens to come up for consideration, we cannot gloss over the same and proceed as if we have seen nothing amiss. We have taken oath to bear true faith and allegiance to the Constitution of India and to uphold it. What is flamboyantly termed as the power of judicial review is in fact the duty of Courts and Judges to ensure the rule of law. (Philip Hamburger's Law and Judicial Duty)

14. Therefore, even as we declare that the reservation for wards/dependents of serving/retired police personnel and serving ministerial staff of the police department is unconstitutional, we make it clear that the recruitment already made in terms of the said reservation would not be affected. However, in future the State Government shall not resort to the said reservation. Since the appellant seeks benefit under a rule that has been declared as unconstitutional, the question of granting relief to him will not arise.

15. This writ appeal is accordingly disposed of. No costs. Consequently, connected civil miscellaneous petitions are closed.

5. There is no specific G.O or any provision in the Act for the Forests Department for granting employment to the wards of the staffs in the Forests Department. Moreover, the reservation granted to wards to the police personnel was declared as unconstitutional, hence the prayer sought for in this writ petition cannot be entertained. This Court does not find any merits in this case. Accordingly, this Writ petition is dismissed. No Costs. Consequently, the



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connected Miscellaneous Petition is closed.

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Index : Yes / No

Internet : Yes

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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,
Government of Tamilnadu,
Environment and Forest Department,
Fort St. George,
Chennai.
- 2.The Principal Chief Conservator of Forests,
9th Floor, Panagal Building,
Saidapet,
Chennai-15.

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3.Tamilnadu Forest Uniformed Services Recruitment Committee,
Rep. by its Chairman,
O/o.Principal Chief Conservator of Forests,
9th Floor, Panagal Building,
Saidapet, Chennai-15.

S.SRIMATHY, J

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