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W.P.No.2316 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2023

CORAM :

THE HON'BLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.2316 of 2020

Syam Mohan K

... Petitioner

Versus

1.The Union of India,
Rep. by Secretary, Ministry of Defence,
South Block,
New Delhi – 110 001.

2.The Army Recruiting Officer,
Madras Regimental Centre,
Wellington,
Nilgiris – 6432321.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, to direct the 2nd respondent to select the petitioner for the post of Soldier Tradesman (Less Musician) and confer all consequential benefits.

For Petitioner : M/s. S. Shalni

For Respondents : Mr. R.P. Pragadish,
Central Government Counsel



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ORDER

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This Writ Petition has been filed to direct the second respondent to select the petitioner for the post of Soldier Tradesman (Less Musician) and confer all consequential benefits to him.

2.The brief facts of the case are that the petitioner, a Kerala citizen, has a Certificate 'C' from the National Cadet Corps (NCC). One Mr.Gopu Mohan, who is currently serving in the Indian Army as SIGMN of 71 IDSR, is his brother, and the same was recorded in the petitioner's service record. As per the Notification dated 15.04.2019, issued to the second respondent, stating that a recruitment rally under Unit Headquarters Quota to be held at the Madras Regimental Centre, Wellington, The Nilgiris on 27.5.2019 to fill up the posts of, Soldier GD (General Duty), Soldier Tradesman (Less Musician) and Soldier Tdn (Musician) and these vacancies were notified State-wise. The Petitioner applied to the post of Solder Tradesman (Less Musician). The recruitment under the said Notification dated 15.4.2019 was published only to the Wards of Serving Soldiers/Ex Serviceman/Widow/ War Widow & Real brothers of serving Soldier/Ex Serviceman. The said Notification dated 15.4.2019 called for applications to fill up the above said posts. The recruitment process consists of Documentation verification;



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Physical Fitness Test; Medical Examination and Common Entrance Examination (CEE). In other words, in the first phase, the certificates and testimonials of the applicant are verified and when the same are in order, the applicant is required to undergo a physical test followed by a medical examination. Thereafter, if the applicant is successful in the physical test and medical examination, they will be issued the Admit Card for the Common Entrance Examination. While applying for the said post, the petitioner submitted a Relationship Certificate, which was issued by the Indian Army to the petitioner's brother, viz., Mr.Gopu Mohan, on 12.01.2018, as part of his application in response to the notification dated 15.04.2019. Apart from that, the petitioner has fulfilled all the eligibility criteria for the recruitment process for the Soldiers Tradesman such as 10th standard passed and obtaining a minimum of 33% in each subject. Therefore, the Petitioner successfully completed the recruitment process by way of documentation, physical fitness test and the medical examination. As per the eligibility criteria for the recruitment process of the Indian Army, being the holder of Certificate 'C' issued by the National Cadet Corps, he was exempted from the Common Entrance Examination (CEE). Even though he was exempted, he is required to appear for the Common Entrance Examination. Therefore, moving to the next level, the petitioner was called



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for the Common Entrance Examination by issuing admit card bearing Roll No.MRW/KER/ TN/241119/54573. The petitioner duly appeared for the Common Entrance Examination on 24.11.2019, thereby, he complied with all the terms and conditions as per the said notification. While publishing the result, the petitioner's name was not there in the result and he came to know that he was not selected for the post of Soldier Tradesman (Less Musician) by the second respondent, even though he fulfilled all the recruitment process. The second respondent did not give any explanation whatsoever as to why the petitioner was not selected even after the successful completion of the recruitment processes. Therefore, according to the petitioner, it is a violation of the fundamental rights under Articles No.14 and 21 of the Constitution of India. Having no other option, the petitioner laid the present Writ Petition before this Court to meet the end of justice.

3. A counter affidavit was filed on behalf of the respondents on 14.12.2021 and in which paragraphs Nos.4, 5 & 8 are as follows:-

“4. I respectfully submit that availability state and required standard of vacancies for recruitment rally in each Trade/Group against various was follows:-

(a) Soldier GD. Candidate should be Tamil



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Nadu, Kerala, Karnataka, Andhra Pradesh, Telangana, Andaman & Nicobar, Lakshadweep & Pcy states (South Indian Cast) only.

(b) Soldier Tdn (less Musician). Any State (All India All Class)

(c) Soldier Tdn (Musician). Open Rally for person with talent in playing musical instruments.

(e) Outstanding sportsmen in soldier General Duty Category.

5. I respectfully submit that under mention vacancies were allotted by integrated Headquarters of Ministry of Defence (Army) letter No 63502/Rtg B (C) dated 25 March 2019 (Annexure R-1) for Unit Headquarters Enrollments to the Madras Regimental Center:-

- (a) Soldier General Duty - 303*
- (b) Soldier Tradesmen (Musician) - 04*
- (c) **Soldier Tradesmen (Chef)** - 05*
- (e) Soldier Tradesmen (Support Staff (ER)- 01*
- (f) Soldier Tradesmen (Painter & Decorator)- 01*
- (g) Soldier Tradesmen (House Keeper)- 02*
- (h) Soldier Tradesmen (Dresser) - 02*
- (j) Soldier Tradesmen (Washermen)- 04*

.....

8. I respectfully submit following with reference to Para 11 of the application:-

(a) That as per the policy of Integrated Headquarters of Ministry of Defence (Army) letter No 62536/Rtg 5 (OR) (A) dt 12 September 2007 (Annexure R-III) Priority is given to own Regiment (Madras Regiment) candidates in Unit Headquarters



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Enrollment while preparing merit list.

(b) That total of 27 Candidates who appeared in Common Entrance Examination on 24 November 2019 for particular trade (Chef), 11 Candidates appeared from own Regiment (Madras Regiment) in particular trade (Chef) and 05 candidates selected in final merit of own Regiment (Madras Regiment) and it is also intimated that there was only 05 vacancies in particular trade (Chef) as allotted by Integrated Headquarters of Ministry of Defence (Army) letter mentioned in para 4 of this letter.

(c) That none of the candidates of other Regiment were selected in final merit list. In accordance with the policy as mentioned in para 7 (a).

(d) That Mr Shyam Mohan, S/O Sasimohan TK was brother relation of Signal Regiment so individual was not in merit list."

4. Heard the learned counsel for both sides and perused the materials on record.

5. In the case on hand, the petitioner has applied for the post of Soldier Tradesman (Less Musician) in response to the notification dated 15.04.2019. It is seen that the petitioner had fulfilled all the required qualifications including education and physical, but, the most important qualification is not fulfilled is that his brother does not belong to the Madras Regimental Center and he belongs to the Indian Army in the rank of Signal



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man of the Signal Regiment. This recruitment according to the respondents was organized by the Madras Regimental Center, Wellington, The Nilgiris, Tamil Nadu. The Madras Regimental recruitment rally under the Unit Headquarters Enrollment has been organized only for the Wards of Serving Soldiers/Ex-Serviceman/Widow/War Widow & Real brothers of serving Soldiers/Ex-Serviceman for considering. According to the respondents, this notification is only pertaining to the Madras Regimental Center and not for other Regiments. But, the same was not mentioned in the notification that the recruitment is only with regard to the enrollment of Wards of Serving Soldiers/Ex-Serviceman/Widow/ War Widow & Real brothers of serving Soldiers/Ex-Serviceman of Madras Regiment.

6. Since this Court wanted to get clarifications, directed the concerned officer to be present before this Court. Accordingly, Major Mr.Lokesh Pant, Officer in charge of the Tamil Nadu Legal Cell, Chennai was present and he submitted that there is a notification from the Ministry of Defence, it says that the recruitment is only with regard to the Madras Regimental Center. But, he admitted that in the notification nowhere it is mentioned, but, at the time of document verification each and every candidate was informed the same. This Court is not inclined to accept this



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submission. However, all the candidates were informed orally if, in the notification, it was clearly mentioned that the posts were only to the persons who worked in the Madras Regimental Center alone will be considered, the petitioner would not have applied for the said post. For that the respondents contend that the petitioner's brother, who is also serving in the Indian Army in the Signal Regiment, is well aware of the fact that only the person's relations who were working in the Madras Regimental Centre alone are eligible for applying the said posts. Finally, after the completion of the recruitment process, five candidates were selected in the final merit list of their own regiment i.e., Madras Regimental Center, and it is also intimated that there were only five vacancies in particular Soldier Tradesmen (Chef) as allotted by the Integrated Headquarters of Ministry of Defence (Army).

7. The learned counsel for the respondent drew the attention of this Court through the letter issued by the Headquarters of Ministry of Defence (Army) Letter No.633502/Rtg/B (C), dated 25.03.2019 (Annexure R-1) for the Unit Headquarters Enrollment to the Madras Regimental Center. Hence, from the above letter, it is clear that the selection and the appointment is only for the Madras Regimental Center and not for any other candidates whose relations are working in other regiments.



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8. This Court has also directed the Officer to inform the same to the Head of the Madras Regimental Center, Wellington, The Nilgiris, that in the future, whenever the notification are issued it must be clearly mentioned that it is only for the Wards of Serving Soldiers/Ex Serviceman/Widow/War Widow & Real brothers of serving Soldier/Ex Serviceman of Madras Regimental Center and they alone are eligible to apply for the above said posts and they only will consider for the appointment. It is unfair to intimate the eligibility criteria at the time of certificate verifications to the candidates.

9. In view of the above factual matrix, this Court is of the considered view that the relief sought for the petitioner cannot be granted to the petitioner.

10. In the result, the Writ Petition is dismissed with the above direction and observation. No costs.

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Index : Yes/No
Speaking / Non-Speaking order
Neutral Citation : Yes/No
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J.SATHYA NARAYANA PRASAD,J.

Klt

To:

- 1.The Secretary, Ministry of Defence,
The Union of India,
South Block, New Delhi – 110 001.
- 2.The Army Recruiting Officer,
Madras Regimental Centre,
Wellington, Nilgiris – 6432321.

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