



WEB COPY



WP.No.33395 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

W.P. No.33395 of 2015

and

M.P.Nos. 1 & 2 of 2015

1. G.Kandan

2. N.Ramkumar

3. A.Selvakumar

4. A.Sathiyaraj

....

Petitioners

Vs

1. The Commandant General cum Inspector
General of Police,
Police Department,
Puducherry.

2. The Commandant (Home Guard)
Senior Superintendent of Police (Crime & Intelligence),
Police Department,
Puducherry.

3. The Superintendent of Police (Head Quarters)
No.2, Dumas Street,
Police Head Quarters,
Police Department,
Puducherry.

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the concerned records relating to the Notification No.2453/A1/ESTT.1(B)/POL/2014 dated 17.10.2014 issued by the 3rd respondent and quash the



WP.No.33395 of 2015

notification and consequently direct the 3rd respondent to issue a revised notification duly providing for communal reservation for appointment of Home Guards in the Puducherry Home Guard Organisation by issuing a revised notification.

For Petitioner : Mr.M.Gnanasekar
For Respondents : Mr.Syed Mustafa
Spl.Government Pleader (Pondy)

ORDER

This Writ Petition has been filed challenging the Notification No.2453/A1/ESTT.1(B)/POL/2014 dated 17.10.2014 issued by the third respondent for recruitment of Home Guards.

2. The petitioners submitted their applications on 10.11.2014, as per the Notification dated 17.10.2014, for the post of Home Guards. The requisite educational qualifications are prescribed in the Notification. The other requirements regarding physical measurements, physical efficiency test, written test, medical test, physical standards etc., are also clearly mentioned in the Notification. Accordingly, the petitioners appeared for written examination and they scored 50, 44, 41 and 40 respectively and all of them belong to M.B.C. Community. The Rule of reservation is extended to Police Constable. However, it was not extended to Home Guard, which is highly illegal and arbitrary.



WP.No.33395 of 2015

3. A perusal of the counter filed by the third respondent revealed that the Rules have been amended to the Puducherry Home Guards Rule, 1966 vide G.O.Ms.No.24, dated 14.05.2013. Accordingly, a separate women's wing of Home Guards shall be constituted in such areas as the Government may decide and the educational qualifications shall be prescribed by the Government. Provided that not less than 20% of the total sanctioned strength shall be represented by the women Home Guards which may be prescribed by the Government from time to time. The proposal was sent to the Government on 27.08.2014 seeking approval for issuing revised Notification for recruitment of Home Guards. Accordingly, the approval was also accorded and revised Notification for recruiting 450 Home Guards were issued dated 12.09.2014.

4. As per the Rule 4(1)(d) of the Puducherry Home Guards Rules, 1966, the opinion of the commandant of the respective regions suitable for appointment as a member of the Home Guards. According to the Home Department by the proceedings dated 12.09.2014, the region wise break up of vacancies were notified. Accordingly, the Notification was issued for recruitment of Home Guards vide



WP.No.33395 of 2015

No.2853/A1/Estt.I(B)/POL/2014, dated 17.10.2014, which is challenged

in the present writ petition. After completion of efficiency test, the qualifying persons were called for written examination. As per the petitioners are concerned, they were selected for physical efficiency test and they were selected for written examination. As per the written examination, the selected list was published on 15.09.2015. In the written examination, the petitioners scored only 49, 43, 41 and 41 respectively. Since the last cut off mark in the written examination test for the candidates belonging to Puducherry region, whereas the applications had scored below 58 marks. Therefore, they were not selected under the Puducherry region for the Home Guards. Further, it is seen that the present writ petition is only an after thought that the petitioners having been appeared for physical test and written test and having been failed to select for the post of Home Guards in the written examination. Now the very Notification itself dated 17.10.2014 is challenged by the unsuccessful candidates who raise this ground of fault selection in order to pave way for their selection.

5. It is settled law that any person who subjected himself to the process of a selection without any challenge that on becoming



WP.No.33395 of 2015

unsuccessful cannot challenge the recruitment process. Therefore, the petitioner was estopped from raising the plea of any irregularity or violation in the selection process. As per the Government policy, community reservation of post will be given only to the posts which are regular in nature. The Home Guard is the constitution of volunteer organizations. Therefore, it is not a regular service. As per the Compendium released in the year 2007 by the Director of Civil Defence, the enrolment policy for Home Guard is as follows :

"Home Guards is a vountary organisation and almost all ranks up to company level are volunteers. A small number of full time paid staff for training, command and control is authorised at city/town, district and state levels. The Home Guards Acts/Rules of State Governments stipulate varying lengths of tenure for members of Home Guards. After completion as their tenures, they are eligible for re-enrolement. However, it is observed that in some states by retaining those members over long period, erosion in the voluntary character of the organisation is taking place. It is suggested that as far as possible, unemployed perons should not be retained as Home Guards over a long period so as to preserve the voluntary character of the organisation."



WP.No.33395 of 2015

WEB COPY

Therefore, there is no reservation basis selection method as followed for the post of Home Guards on any account as they are rendering their services voluntarily to the Government under Honorarium basis which are not of regular posts.

6. In view of the above, the writ petition lacks merits and it is liable to be dismissed. Accordingly, this Writ Petition stands dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

04.08.2023

Lpp
Index:Yes/No
Internet:Yes/No

To

1. The Secretary to Government of Tamil Nadu,
Municipal Administration and Water Supply Department,
Fort St.George, Chennai.

2. The Director of Town Panchayats,
Kuralagam, Chennai.

G.K.ILANTHIRAIYAN,J.



WEB COPY



WP.No.33395 of 2015

Lpp

W.P. No.33395 of 2015

04.08.2023