



W.P(MD)No.13328 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 08.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13328 of 2023

and

W.M.P.(MD)Nos.11239, 11240 and 11241 of 2023

K.Vimal Kumar

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary,
Home Department,
Fort St.George,
Chennai.

2.The Director General of Police,
Tamilnadu, Santhome,
Chennai.

3.Tamil Nadu Uniform Services Recruitment Board,
Rep. by its Chairman,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore, Chennai.

4.The Superintendent of Police,
S.P. Office, Kadampa Nagar,
Ramanathapuram.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the record pertaining to the impugned Notification No.01/2023 dated 05.05.2023 issued by the 3rd Respondent insofar as age eligibility and quash the same and subsequently directing the respondents to allow the petitioner to apply for the post of Sub-Inspector.

For Petitioner : Mr.S.Arunnithy

For Respondents : Mr.Veerakathiravan,
Addl. Advocate General,
Assisted by Mr.T.Villavan Kothai,
Addl. Government Pleader.

ORDER

Heard the learned counsel for the writ petitioner and the learned Additional Advocate General assisted by the learned Additional Government Pleader for the respondents.

2.The petitioner is an aspirant for the post of Sub Inspector of Police. The third respondent board issued Notification No.01/2023 dated



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05.05.2023 calling for applications from eligible candidates. The petitioner's father had retired as the Sub Inspector of Police. The impugned notification provides for wards quota. The said wards quota was not available for the last five years following the judgment of the Hon'ble Division Bench in W.A.(MD)No.1241 of 2017, dated 13.02.2018. The judgment of the Hon'ble Division Bench (incidentally authored by me) was reversed by the Hon'ble Supreme Court in Civil Appeal No.10893 of 2018 on 19.01.2023. The wards quota has been resurrected.

3.However, the petitioner is faced with one impediment. The notification reads that the candidates should not have crossed the age of 32 as on 01.07.2023. The petitioner would be crossing the age limit on 27.06.2023. The petitioner therefore wants this Court to direct the respondents to grant age relaxation. In the alternative, he is also attacking the relevant clause in the notification which incorporates age ceiling.



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4.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He pointed out that the petitioner could not avail wards quota for the last five years and therefore, this aspect of the matter should be taken note of. He also would add that on account of prevalence of pandemic, there was also no recruitment. All that the petitioner wants is only an opportunity to participate in the recruitment process. Since the petitioner's rights are involved, he wanted this Court to set aside the impugned notification insofar as age limit is concerned and grant relief as prayed for.

5.I am not persuaded by the submissions of the learned counsel for the petitioner. As rightly pointed out by the learned Additional Advocate General, the issue raised in this writ petition is no longer *res integra*. The Hon'ble Supreme Court in the decision reported in **(2007) 9 SCC 461 (Thirumala Tirupathi Devasthanams Vs. K.Jotheeswara Pillai (Dead) by Legal Heirs and Others)** held as follows:-

“9.The learned Single Judge has also issued a writ of mandamus directing the appellant to consider the case of writ petitioner 5 as to whether he was entitled for exemption from age qualification. As already mentioned the Rules do not make



any provision for granting exemption except to the limited extent as provided in the second para of Rule 11. The principles, on which a writ of mandamus can be issued, are well settled and we will refer to only one decision rendered in Bihar Eastern Gangetic Fishermen Cooperative Society Ltd. vs. Sipahi Singh AIR 1977 SC 2149, where this Court observed as under: -

"A writ of mandamus can be granted only in a case where there is a statutory duty imposed upon the officer concerned and there is a failure on the part of that officer to discharge the statutory obligation. The chief function of a writ is to compel performance of public duties prescribed by statute and to keep subordinate tribunals and officers exercising public functions within the limits of their jurisdiction. It follows, therefore, that in order that mandamus may issue to compel the authorities to do something, it must be shown that there is a statute which imposes a legal duty and the aggrieved party has a legal right under the statute to enforce its performance."

10. There being no statutory provision or rule providing for exemption from eligibility criterion, the learned Single Judge clearly erred in issuing a writ of mandamus against the appellant directing it to consider the case of writ petitioner 5 for granting him exemption from the rule providing for upper age limit for fresh appointment."

6. This Court would therefore be not justified in interfering with the impugned notification on the grounds pleaded by the petitioner's counsel.



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It is true that the petitioner could not avail the wards quota for the last five year. That is only a fortuitous circumstance and that will not confer any legal right as such on the petitioner. No legal ground has been made out for interference. The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

08.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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