



W.P.(MD) No.19598 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDERS RESERVED ON : 20.11.2023

ORDERS PRONOUNCED ON : 23.11.2023

CORAM

THE HON'BLE MR.JUSTICE BATTU DEVANAND

W.P.(MD) No.19598 of 2019

and

W.M.P.(MD) Nos.16059 and 16060 of 2019

- 1.M.Muthukrishnan
- 2.P.Veerappan
- 3.G.Ranjith
- 4.S.Eswaran
- 5.P.Palpandi
- 6.S.Mareeswaran
- 7.P.Vijayakumar
- 8.V.Gopalakrishnan
- 9.D.Beljin

... Petitioners

Vs.

- 1.Union of India,
Rep., by its Secretary,
Ministry of Defence,
101, South Block,
New Delhi-110 011.



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2.The Chief of Army Staff,
Integrated HQ of MOD (Army),
South Block, New Delhi-110 011.

3.The Officer in Charge,
HQ Recruiting Zone,
Chennai-900 432.

4.The Officer In Charge,
Army Recruiting Office,
Garuda Lines, Trichy-620 001.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus, to call for the records pertaining to an impugned order 64710/CHN/Rtg B(E) dated 27.09.2018 issued by the 2nd respondent and quash the same as arbitrary and illegal and consequently direct the 4th respondent to enrol the petitioners in the category of Sol./TDN as they had already been selected and pass.

For Petitioners : Mr.L.Rajiah

For Respondents : Mr.K.Govindarajan
Deputy Solicitor General of India

ORDER

This Writ Petition has been filed to call for the records pertaining to the impugned order in 64710/CHN/Rtg B(E), dated 27.09.2018 issued by



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the 2nd respondent and quash the same as arbitrary and illegal and for a consequential direction to the 4th respondent to enrol the petitioners in the category of Sol. TDN in the interest of justice.

2. The case of the petitioners is that they applied for enrolment in Indian Army as per the notification uploaded in the Army Official Website from 24.02.2018 for the post of 'Soldier Tradesmen' (SOL TDN). Then the petitioners have attended the Army Recruiting Rally conducted by the 4th respondent. They passed Physical Fitness Test and Physical Measurement Test. Originally, the petitioners were having education qualification of 12th pass and they are holding NCC 'C' Certificate. NCC 'C' Certificate holders were exempted from the written examination. The petitioners were under the impression that as they have successfully gone through the Physical Test and Medical Test, they will be appointed as Soldier Tradesmen. But, in the results declared by the 4th respondent on 29.07.2018, the petitioners' names were not included in the selection list of 22 candidates. When they asked the 4th respondent personally, they were informed that there was no vacancy. The petitioners submitted representation to the 4th respondent on 03.09.2018



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marking a copy to the 2nd and 3rd respondents. The 2nd respondent has served an order in 64710/CHN/Rtg B(E) dated 27.09.2018 informing that the petitioners did not come under the merit list of NCC 'C' Certificate holders. Dissatisfied with the reply, the petitioners have issued a legal notice to the 4th respondent on 12.12.2018. There was no response for the said notice. Then they filed a writ petition before the Principal Bench in the month of December, 2018 *vide* W.P.SR No.433 of 2019 and the same has been withdrawn on 16.08.2019 with a liberty to file a fresh writ petition. Aggrieved by the order dated 27.09.2018, which severely affects the future of young generation like the petitioners, who intend to join in Army, which is arbitrary and contrary to law of natural justice, the petitioners filed the present writ petition.

3. On behalf of the respondents, a counter affidavit has been filed.

4. It is averred in the counter affidavit that as per the notification dated 24.02.2018, Army Recruitment Rally was conducted and thereafter, CEE for Sol Tech, Sol Tech (Avn/Amn), Sol Clk/SKT and Sol Tdn (Cl 10th



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WEB COPY & 8th Cat) was conducted on 29.07.2018 at ARO, Trichy and the results were declared subsequently on 08.08.2018. Among the candidates for Sol Tdn 10th Cat, who appeared were for the CEE, the total number of applications were 226 out of which, there were 36 NCC 'C' Certificate holders and they were exempted from the written examination as per the existing policy. It emerged that out of these 36 candidates, only 22 candidates were in the merit list of Sol Tdn 10th and 14 candidates were not in it.

5. It is averred in the counter affidavit that in the past, the number of vacancies had been generally more than the number of NCC 'C' Certificate holders. Thus, all NCC 'C' Certificate holders usually made it in the merit list. However, at present, owing to the vacancies being limited to 22 under the specific trade based merit list, 14 out of the 36 NCC 'C' Certificate holders had been left out of the merit list. The affected NCC 'C' Certificate holders had approached the 4th respondent about their not being selected, despite having an NCC 'C' Certificate. The candidates were explained the fact that NCC 'C' Certificate does not guarantee their selection



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in the merit list, which is a function of number of vacancies and *inter se* merit of the NCC 'C' Certificate candidates within a particular category/trade.

6. In the counter affidavit, it is further averred that the selection process comprises two stages, i.e., Open Rally and CEE. The Open Rally consists of Physical Fitness Test (PFT), Physical Measurement Test (PMT) and Medical Examination. CEE is the Common Entrance Exam to be held after the Open Rally stage. The NCC 'C' Certificate candidates are exempted to write CEE. The process of evaluation and decoding is done after the candidates' attendance of Open Rally and is an automated digitized evaluation system, which is fair, objective, transparent and impartial operating on a pre-programmed software. The final merit list is generated by a computerized automated selection process devoid of any human intervention of subjective assessment. Candidates, as per *inter se* merit, passing the selection process, are automatically shortlisted and placed in merit by the automated programme based on stipulated policy guidelines and tightly regulated selection parameters.



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7. It is further averred in the counter affidavit that since the total number of Sol Tdn 10th Cat vacancies were less than the total number of NCC 'C' Certificate holders, a few candidates were not in merit in respective sub trade. It is logical that some candidates would always be eliminated among NCC 'C' candidates, where the candidates are more than the vacancies available. The petitioners' contention of being eliminated despite having an NCC 'C' Certificate is unfounded.

8. It is submitted that no non-NCC 'C' Certificate (General Category) candidates have been selected in Soldier Tradesmen 10th Cat. Evidently, the eliminated NCC 'C' Certificate candidates have scored less marks in physical test than their fellow counterparts, who also possess NCC 'C' Certificate. In those cases, where two or more NCC 'C' Certificate candidates have scored equal marks in physical test, then the automated evaluation system, automatically switches to criteria based on policy stipulated priorities, i.e., Son of Serviceman/ Ex Serviceman/ War Widow/ Widow/ Education Criteria/ Age Criteria and Height (Tall) Criteria, referred



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as SEAT system of selection, wherein candidates with parentage of Serviceman/ Ex Serviceman/ War Widow/ Widow (S)) are given higher priority, followed by the higher Education (E), higher Age (A) and lastly the Taller candidates (T). This system of SEAT selection is based on Policy Compendium, Recruitment Directive for Recruitment of Junior Commissioned Officers and other Ranks. SEAT criteria is a pre-fed software program in the automated computerized evaluation system, devoid of any human intervention. Therefore, if NCC 'C' Certificate holders perform better than each other, it is logical that some candidates will be eliminated due to lower scores in the particular category applied for, as also due to stipulated policy based criteria, uniformly applicable to all candidates.

9. It is averred in the counter affidavit that the representation dated 03.09.2018 submitted by the petitioners, was properly answered by the respondents *vide* their letter bearing No.64710/CHN/Rtg B(E), dated 27.09.2018 and the same reply stands good and the said reply is a principled stance of the Recruitment Directorate based on stipulated policy and time



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tested selection process. It is finally averred that the petitioners have been rejected outrightly by the automated selection system based on stipulated policy and the petitioners have not yet cleared the selection process and hence, they cannot claim a right to succeed and sought to dismiss the writ petition.

10. Learned counsel for the petitioner submits that all selected candidates are graduates and NCC 'C' Certificate holders and they were exempted from CEE. The petitioners qualified in Physical Fitness Test, Physical Measurement Test and Medical Test. Under these circumstances, it creates suspicious and confusion, as the names of the petitioners are not included in the selected candidates list. The learned counsel further submits that the respondents have not notified the vacancies of the Sol Tdn and other categories, which is violation of Articles 14 and 16 of the Constitution of India and also illegal and unsustainable in law. Subsequent stand of limited vacancy is not acceptable after selection. On this ground alone, the impugned order is liable to be set aside.



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11. The learned counsel further submits that now the age of the petitioners have crossed 23 and this is a last chance to get enrolled in Army, or otherwise, there would be no chance to them and their dream of putting olive green uniform will be shattered. The action of the respondents shows the non-application of mind about the future and the prospect of the petitioners' career has been curbed and sought to allow the writ petition with a direction to enrol the petitioners in the category of Sol Tdn 10th Cat.

12. On the other hand, learned Deputy Solicitor General appearing for the respondents would contend that as per stipulated procedure, all candidates, including NCC 'C' Certificate candidates, must undergo a detailed evaluation process for objective and fair discernment of *inter se* merit. On the basis of the marks scored in physical test, the candidate's merit is objectively and scientifically discerned by an automated system, which runs on stipulated transparent selection parameters applicable uniformly to all candidates to include NCC 'C' Certificate candidates in a policy based pre-designed programme setting.



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13. The learned Deputy Solicitor General further contends that in some cases, where two or more NCC 'C' Certificate candidates have scored equal marks in physical test, then the automated evaluation system automatically switches to selection criteria based on the system of SEAT selection. The learned Deputy Solicitor General contends that the SEAT criteria is a pre-fed software programme in the automated computerized evaluation system, devoid of any human intervention. As such, the contention of the petitioners is baseless and devoid of merit and sought to dismiss the writ petition.

14. This Court gave serious consideration to the rival contentions and examined the material available on record carefully.

15. In fact, this Court also called for the records pertaining to the selection process and the same were submitted to the Court by the respondents in sealed cover and the same were perused by the Court.



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16. There is no dispute with regard to the eligibilities of the petitioners to participate in the selection process to enrol into the Army under different categories. All the petitioners, being qualified to participate in the Open Rally, have participated in the Physical Fitness Test and Physical Measurement Test and they passed in the said tests. As the petitioners are the NCC 'C' Certificate holders, they were exempted to appear for CEE, which is a written examination held after the Open Rally stage.

17. The contention of the petitioners is that though they qualified in Physical Fitness Test, Physical Measurement Test and in Medical Fitness Test and they were exempted to write CEE, they were not selected.

18. On the other hand, the contention of the respondents is that though the petitioners passed Physical Fitness Test and Medical Test and they were exempted to write CEE, but they did not come under the merit list of NCC 'C' Certificate holders due to the limited vacancies.



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19. As per the material available on record, it appears that among the candidates for Sol Tdn. 10th Cat, who appeared for the CEE, the total number of applications were 226. Out of which there were 36 NCC 'C' Certificate holders. On declaration of the results, out of 36 NCC 'C' Certificate holders, only 22 candidates were selected and 14 NCC 'C' Certificate holders had been left out. As and when 36 NCC 'C' Certificate holders are competing for 22 posts earmarked for NCC 'C' Certificate holders, normally to select 22 candidates, the respondents have to follow some procedure to select 22 candidates out of the 36 candidates. Admittedly, in the present case, as per the records submitted by the respondents except one petitioner, remaining petitioners have scored same marks scored by selected candidates. At that stage, to get certain clarifications from the respondents, this Court called the 3rd respondent to the Court and expressed its doubts and sought some clarifications in the presence of the learned counsel for the petitioner and the learned Deputy Solicitor General. The 3rd respondent reiterated the contentions made in their counter affidavit as extracted hereinunder:

“13. Evidently, the eliminated NCC 'C'



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certificate candidates have scored less marks in physical test than their fellow counterparts who also possess NCC 'C' certificate. In those cases, where two or more NCC 'C' certificate candidates have scored equal marks in physical test then the automated evaluation system automatically switches to selection criteria based on policy stipulated priorities i.e Son of Serviceman/ Ex Serviceman/ War Widow/ Widow/ Education Criteria/ Age Criteria and Height (Tall) criteria, referred as SEAT system of selection wherein candidates with parentage of Serviceman/ Ex Serviceman/ War Widow/ Widow (S) are given higher priority, followed by the higher Education (E) higher Age (A) and lastly the taller candidate (T). This system of SEAT selection is based on Policy Compendium, Recruitment Directive for Recruitment of Junior Commissioned Officers and other Ranks 2014, Part IV, Sec IV, Page number 117, Para 85 (f) (iii). The SEAT criteria is a pre-fed software program in the automated computerised evaluation system, devoid of any human intervention. Therefore, if NCC 'C' certificate holders perform better than each other it is logical that some candidates will be eliminated due to lower scores in the particular category applied for, as also due to stipulated policy based criteria, uniformly applicable to all candidates.”



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20. On careful consideration of all aspects, it appears the respondents have followed the selection process based on the system of SEAT selection based on a policy of compendium, Recruitment Directive for Recruitment of Junior Commissioned Officers and other Ranks. It appears that the SEAT criteria is a pre-fed software programme in the automated computer evaluation system without any human intervention. It appears that as per the SEAT system, when some of the candidates scored equal marks as per the policy stipulated priorities, the Sons of Serviceman/ Ex Serviceman/ War Widow/ Widow/ Educational criteria/ Age criteria and Height criteria will be considered. In the present case, it appears that though the petitioners qualified in physical and medical tests and exempted to attend CEE, but in the system of SEAT selection process, they were excluded from the selection, while selecting 22 other candidates.

21. For the above mentioned reasons, in the considered opinion of this Court, this Writ Petition is devoid of merit and accordingly, liable to be dismissed.



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22. Accordingly, this Writ Petition is dismissed.

23. There shall be no order as to costs.

24. Consequently, connected miscellaneous petitions are closed.

23.11.2023

Note: Issue order copy on 23.11.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

1.The Secretary to Government,
Union of India,
Ministry of Defence,
101, South Block,
New Delhi-110011.

2.The Chief of Army Staff,
Integrated HQ of MOD (Army),
South Block, New Delhi-110011.



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- 3.The Officer in Charge,
HQ Recruiting Zone,
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BATTU DEVANAND, J.

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Pre-delivery Order made in
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