



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:12.01.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

REV.APPLW(MD).No.98 of 2022

in

W.P(MD)No. 3411 of 2017

B.Mahendran

... Petitioner/Petitioner

Vs.

The Chairman,
Tamil Nadu Forest Uniformed Services,
Recruitment Committee,
Panagal Maligai, 9th Floor,
Saidapet, Chennai – 600 015.

... Respondent/Respondent

Prayer: Review Application filed under Order 47 Rule 1 r/w 114 of the Civil Procedure Code, to review the order, dated 21.04.2022 passed in W.P.(MD)No.3411 of 2017 on the file of this Court.

For Petitioners : Mr.H.Mohammed Imran, for
M/s.Ajmal Associates

For Respondent : Mr.Veera Kathiravan,
Additional Advocate General,
assisted by,
Mr.S.R.A.Ramachandran,
Additional Government Pleader

ORDER

This Review Application in Rev. Appl. (MD).No.98 of 2022 was filed against the order, dated 31.01.2022 passed in W.P.(MD).No. 3411 of 2017.



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2. The petitioner had challenged the notification, dated 17.04.2015 relating to the deletion of the question Nos.98 & 111 of Paper-I General Knowledge and rectification of mistakes committed in the original application by the students and seeking consequential direction to the respondent to select and appoint the candidates as per the original Notification in Advertisement No.1/2014, dated 22.12.2014.

3. After hearing the rival submissions, this Court directed the respondent to consider the petitioner's candidature, if the petitioner is eligible for the said post. The respondent after considering the case of the petitioner has declined the petitioner's claim and rejected the petitioner's candidature. The contention of the petitioner is that inspite of available vacancy, the respondent did not accommodate the petitioner. Hence, the present review application is filed, seeking direction to the respondent to appoint the petitioner in the available vacancy.

4. Today, when the review application is taken up for hearing, the respondent has circulated a copy of letter communicated to the petitioner, which shows that the petitioner had obtained 149.6 marks in the written examination. However, under the Backward Community



quota the cut off mark is fixed as 152 and for the General Turn the cut off mark was fixed as 160.80. Hence, the petitioner was not called for certificate verification, as the marks secured by the petitioner is less than the cut off marks fixed for both the quotas. Further the petitioner does not possess any special qualifications, such as Sports or PSTM (Person Studied in Tamil Medium at degree level) etc. Since the petitioner did not qualify for further selection beyond the written examination, the candidature of the petitioner for selection came to an end and he is not eligible for the said post.

5. The contention of the petitioner is that originally the respondent called for recruitment on 22.12.2014, through Notification No.1/2014. The petitioner and some other persons have filled the OMR sheet correctly. But the contention of the respondent is that the respondent found that the while filling the OMR sheet there were several mistakes committed by the applicants. Especially, while filling the reservation quotas and also PSTM quota. Since the method of recruitment through OMR sheet was introduced for the first time in the year 2014, hence, the respondents allowed all the candidates, without discriminating anybody, granted one more chance for the candidates to rectify their mistakes and refill the OMR sheet and submit again.



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6. The further contention of the petitioner is that he has filled the OMR sheet correctly. If the respondent has taken the correctly filled OMR sheet and considered the case of the candidates, the petitioner would have been the successful candidate. Since the respondent has allowed all the candidates to rectify the mistake, several candidates were given second opportunity, thereby the petitioner lost the chance. Moreover, in the recruitment process, if any mistake committed or any person has not correctly filled up the OMR sheet or left any blank cannot be allowed to rectify the same. And it is settled preposition of law that if any candidate had committed any mistake, then they cannot seek another opportunity to rectify. However, the respondent claims that chance was given to all the candidates, without discriminating any candidate to correct their mistakes and resubmit the same, since the OMR method recruitment was introduced in the first time. This Court is of the considered opinion since it is a settled proposition that the candidates cannot be allowed to rectify the mistakes, then the petitioner is in advantageous position. Hence, this Court directed to consider the respondent. However, the respondent has come out with the case that the petitioner has not obtained adequate marks.



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7. The contention of the petitioner is, since several candidates were allowed to rectify their mistakes, the cut off mark was increased. The learned counsel appearing for the petitioner further submitted that there were vacancies still available in the respondent department. However, this was refuted by the respondents and submitted that the entire vacancy which were shown in the notification are filled up. The reply granted under Right to Information Act, that there are 200 posts vacant are subsequent vacancies. Since those are subsequent vacancies, the petitioner cannot claim right over it. Moreover, if the petitioner is granted such relief, then other similarly persons would come with the same plea thereby setting a bad precedent.

8. While considering the claim of the petitioner this Court has specifically held that the chance to rectify the mistakes committed in OMR sheet was granted by the respondent, which is against the settled preposition of law. The chance might have been granted for various reasons, but the fact remains the same is against the settled preposition of law. This act of the respondent is the reason the petitioner had lost his rights hence, the petitioner should be given a chance. As held supra since several candidates were allowed to rectify their mistakes, the cut off mark was increased. Once the selection process is started the respondents



ought not to have changed the rules of play. Hence the respondent is bound to accommodate the petitioner.

9. Therefore, this Court is directing the respondent to accommodate the petitioner in available vacancy, even though it is subsequent vacancy. However, it is made clear that the petitioner is entitled to all the monetary and service benefits from the date of appointment only and not from the date of his batchmates were appointed.

10. With the above directions, this Review Application is allowed. No costs.

12.01.2023

Index : Yes / No
Internet : Yes / No
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To
The Chairman,
Tamil Nadu Forest Uniformed Services,
Recruitment Committee,
Panagal Maligai, 9th Floor,
Saidapet,
Chennai – 600 015.



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S.SRIMATHY, J.

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