



W.P.No.28859 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 02.01.2024

PRONOUNCED ON : 05. 01.2024

CORAM:

THE HON'BLE Dr. JUSTICE D.NAGARJUN

W.P.No.28859 of 2015

and

M.P.No.1 of 2015

A.Anandharaja

...Petitioner

versus

1. The Chief Secretary,
State Government of Taminadu,
Fort St.George,
Secretariate,
Chennai-600 009.

2. The Chariman,
Tamil Nadu Public Service Commission,
Fazed Bride Road,
V.O.C., Nagar,
Chennai-600 003.

... Respondents

Prayer: This Writ petition has been filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus to direct the respondents to permit the petitioner to attend the counselling to be held on in future and select and appointment him as Village Administrative



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Officer in the Tamil Nadu Ministerial Service under Ex-Service category by taking into consideration of Office Memorandum dated 23.11.2012 of the Director (Personnel), Government of India, Ministry of Home Affairs, Police Division-II (Resettlement and Welfare Directorate).

For Petitioner : Mr.L.Chandrakumar
for Mr.K.Lavan

For Respondents : Mr.S.Ravikumar
Special Government Pleader for R1

: M/s.G.Hema for R2

ORDER

This Writ Petition is filed seeking Writ of Mandamus to direct the respondents to permit the petitioner to attend the counselling to be held in future and select and appoint him as Village Administrative Officer in the Tamil Nadu Ministerial Service under Ex-Service category by taking into consideration of Office Memorandum dated 23.11.2012 of the Director (Personnel), Government of India, Ministry of Home Affairs, Police Division-II (Resettlement and Welfare Directorate).

2. During the course of pendency of the Writ Petition, the relief portion was amended to the effect that the petitioner be considered for



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counselling to be held in future recruitment and select and appoint him as Village Administrative Officer.

3. The facts in brief as per the affidavit enclosed to this Writ Petition are that the petitioner passed his XII standard in the year 1988 and joined as Constable at Border Security Force (BSF) on 26.08.1992. under the control of Ministry of Home Affairs, Government of India. Petitioner worked for 20 years and voluntarily retired from service on 31.12.2012.

4. On 23.11.2012, the Director (Personnel), Government of India, Ministry of Home Affairs, Police Division-II (Resettlement and Welfare Directorate) has issued a office memorandum stating that Cabinet Committee on security has approved the proposal of this Ministry to declare retired Central Armed Police Force Personnel from Central Reserve Police (CRPF), Border Security Force (BSF), Central Industrial Security Force(CISF), Indo-Tibetan Border Police (ITBP) and Sashastra Seema Bal(SSB) as “Ex-Central Armed Police Force Personnel”(Ex-CAPF Personnel) be extended suitable benefits in line to the benefits



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extended to the Ex-Servicemen by the State/UT Governments to Ex-Servicemen of Defence Forces. The said communication was sent to all State Governments including the first respondent.

5. The second respondent has notified the vacancy for the post of Village Administrative Officer in the Tamil Nadu Ministerial Service 2013-14 vide notification dated 17.03.2014. The total number of vacancies notified were 2342. The petitioner has applied for the said post through online under Ex-Servicemen Category. As per notification 5% i.e., 177 seats are reserved for Ex-Servicemen category. The petitioner secured 156 marks out of 300 and his rank under Ex-Servicemen category was 154. He was asked to appear before the second respondent on 10.09.2015 at 10.00 a.m., for certificate verification. However, the second respondent did not consider the petitioner's candidature under Ex-Servicemen Category and asked to approach the first respondent. The petitioner requested the first respondent office to issue certificate that he is Ex-Servicemen on basis of the official memorandum issued by the Government of India, however it was not issued. The petitioner has sent a representation dated 11.09.2015 through E-mail and Fax, but there was



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no response from the respondents, hence the petitioner has filed the Writ Petition.

6. Learned counsel for the first respondent has contended that the Government of India, Ministry of Home Affairs, Police Division II, (Resettlement and Welfare Directorate) through their Office Memorandum No.27011/100/2012-R&W dated 23.11.2012 has suggested that the State/UT Governments concerned may extend suitable benefits to the Ex-Central Armed Police Force Personnel on the lines of the benefits extended by the State /UT Government to the Ex-Servicemen of Defence Forces. Learned counsel also submitted that the Government of India, Ministry of Defence, Directorate General of Resettlement, vide Letter No.0515/Gen/DGR/Emp-3, dated 19.02.2013 has clarified that “Ex-CAPF personnel are not Ex-Servicemen and any benefits to be granted on the lines of Ex-Servicemen will be provided by the Resettlement and Welfare Directorate of Police Division of the Home Ministry. Hence, the learned counsel prays to dismiss the Writ Petition.

7. Learned counsel for the second respondent has filed a separate



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counter affidavit and contended that the petitioner's application was not considered under 'Ex-Servicemen category' as per G.O.Ms.No.110, Ex-Servicemen Welfare Department dated 16.12.2012 and as per para 13 of the instructions to the candidates wherein it has been stated that Ex-Servicemen means persons who have been demobilized from Army, Navy, Air Force, thereby the petitioner is not entitled for the relief sought for and prayed to dismiss the Writ Petition.

8. Heard both sides and carefully perused the materials placed on records.

9. Petitioner sought for an appointment as Village Administrative Officer in the Tamil Nadu Ministerial Service 2013-14. Though initially petitioner's application was entertained by the second respondent, after certificate verification, they found that petitioner was not eligible for the appointment him as Village Administrative Officer under the Ex-Servicemen quota.

10. The petitioner has worked in Border Security Force(BSF) as a



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Constable and after 20 years of service he voluntarily retired from service. Later the petitioner has applied for the post of Village Administrative Officer under Tamil Nadu Ministerial Service 2013-14 vide notification dated 17.03.2014. The short point that falls for consideration is that the petitioner who has retired from BSF can be considered as an Ex-Servicemen so that the benefit of reservation for the post of Village Administrative Officer as per notification dated 17.03.2014 can be extended to the petitioner.

11. Learned counsel for the petitioner vehemently submitted that the petitioner being retired from uniform service worked in the borders of the country have to be treated as Ex-Servicemen thereby the benefits have to be extended to the petitioner similar to Ex-Servicemen. The learned counsel for the petitioner has filed a copy of the official memorandum dated 23.11.2012, issued by the the Director (Personnel), Government of India, Ministry of Home Affairs, Police Division-II (Resettlement and Welfare Directorate), wherein it is stated that the State Governments as well as Union Territory Governments may extend this suitable benefits to the retired personnel from Central Armed Police Force Personnel from



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Central Reserve Police (CRPF), Border Security Force (BSF), Central Industrial Security Force(CISF), Indo-Tibetan Border Police (ITBP) and Sashastra Seema Bal (SSB) as “Ex-Central Armed Police Force Personnel”(Ex-CAPF Personnel) in the lines of Ex-Servicemen/Defence Force. It is submitted by the learned counsel for the petitioner that even though such communication was issued on 23.11.2012, the benefits of Ex-Servicemen have not been extended to the petitioner.

12. There is no material placed by the petitioner to show that the benefits of the Ex-Servicemen were extended to the personnel who retired from Border Security Force (BSF). No doubt that there is a official memorandum dated 23.11.2012 asking the State Governments and Union Territory Governments to extend the benefits of the Ex-Servicemen retired from the Defence Forces to the personnel who retired from Central Reserve Police (CRPF), Border Security Force (BSF), Central Industrial Security Force(CISF), Indo-Tibetan Border Police (ITBP) and Sashastra Seema Bal (SSB). But the said letter has not been attended to by the State Governments including the state of Tamil Nadu. Unless there are orders specifically mentioning that the benefits of Ex-Servicemen are extended



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to the personnels retired from Border Security Force BSF, the benefits of Ex-Servicemen cannot be extended to the petitioner, who admittedly retired from Border Security Force (BSF).

13. The petitioner has filed a copy of the order in W.P.No.3147 of 2017 wherein a similar question came before this Court and a direction was given to the State Government to take necessary steps in pursuance of communication of the Central Government dated 23.11.2012 in respect of providing of reservations of retired persons from Para Military forces but the said direction was confined to the admission to the educational institutions. Subsequently, there is no record that the State Government has issued any orders as directed by this Court. This Court in another W.P.No.18665 of 2017 reported in 2017 (2) CWC 321 has observed as under:

“8. A careful perusal of the Office Memo, dated 23.11.2012 issued by the Ministry of Home Affairs of Union of India, would show in clear and categorical terms, that the petitioner, who is the daughter of a person, who served in BSF, is entitled to be considered under the Ex-Servicemen category, more particularly, when the G.O.Ms.No.198, Higher Education (J1) Department,



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dated 30.05.2003 relied upon by the Anna University does not define as to which categories of persons alone will fall under the Ex-Servicemen category. If a person served on the border of this country is not entitled to be treated under the category of Ex-Servicemen, it is nothing but an utter disrespect shown to the such great service rendered by such person. The stand of the University on this aspect is very unfortunate, hyper technical and cannot be appreciated even for the sake of argument. Therefore, I find every justification in allowing this Writ Petition.

9. Accordingly, the Writ Petition is allowed and the respondents 4 & 5 are directed to consider the Petitioner's daughter's candidature under Ex-Servicemen Quota for admission to B.E./B.Tech. Degree Course for the Academic year 2017-18 and also to allow the Petitioner to take part in the counselling under the Ex-Servicemen category.”

14. In respect of the above judgment the direction was given to consider admission of the petitioner's daughter into B.E./B.Tech degree course and not in respect of the employment. Even then there is no record whether those directions have been implemented by the Government or not. There is no record that persons who retired from Border Security



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Force(BSF) have to be given benefit of Ex-Servicemen. The G.O.Ms.No.110, Ex-Servicemen Welfare Department dated 16.12.2012 and letter No.19857/Ex-Ser/2012-32, dated 31.07.2015 addressed by the Principal Secretary to Government to the individuals also would go to show that there no specific direction given by the Government to include the retired person from Border Security Force(BSF) as to give the benefit of Ex-Servicemen to the persons retired from Border Security Force (BSF).

15. In view of the above the benefit as sought for by the petitioner cannot be extended to the petitioner since there is no G.O., rule or direction to treat the persons retired from Border Security Force(BSF) as persons retired from Defence Forces.

16. Even otherwise, the petitioner was aged about 56 years as on the date of filing of Writ Petition in the year 2015 and by now he was aged about 65 years and crossed the upper age limit for joining the service has already been expired.



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17. In view of the above, the relief sought for by the petitioner cannot be granted. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Speaking/Non-speaking Order
Neutral Citation: Yes/No
jai

To

1. The Chief Secretary,
State Government of Taminadu,
Fort St.George, Secretariat, Chennai-600 009.
2. The Chairman,
Tamil Nadu Public Service Commission,
Fazed Bride Road, V.O.C., Nagar, Chennai-600 003.



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Dr.D.NAGARJUN, J.
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