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W.P.No.7911



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.7911 of 2021

and

W.M.P.Nos.8452 and 8453 of 2021

D.Balaji

... Petitioner

Vs.

1. The Secretary to Government,
Home (Police) Department,
Fort St. George, Chennai – 600 009.
2. The Chairman/ Director General of Police,
Tamil Nadu Uniformed Services Recruitment Board,
Pantheon Road, Egmore,
Chennai – 600 008.
3. The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai – 600 004.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Ceriorarified Mandamus, calling for the records of the 2nd respondent dated 16.03.2020 and to quash the same and further direct the respondents to permit the petitioner to participate in the next stage of election and to select and appoint the petitioner as Sub-Inspector of Police under 20% PSTM (Persons studies in Tamil Medium) quota and grant such other further relief as this Hon'ble Court may deem fit.



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For Petitioner : Mr.S.Sivakumar
For R1 and R3 : Ms.E.Ranganayaki,
Additional Government Pleader
For R2 : Mr.P.Kumaresan
assisted by
Ms.Sowmi Dattan

ORDER

The Respondent No.2 herein issued a Notification No.2/2019 dated 08.03.2019 for filling up 969 posts of 'Sub-Inspector of Police(Taluk AR)' for the year 2019 and out of which 20% of the vacancies were reserved for PSTM quota. In response to the said notification, the petitioner submitted an application with Registration No.0410009 and participated in the recruitment process. However, the petitioner was found not qualified/ not selected for the next phase of selection in the results of written examination published on 16.03.2020. Thereafter, it is only on 22.03.2021 i.e., almost after a period of one year, the petitioner approached this Court by filing the present Writ Petition questioning the results published on 16.03.2020 and sought for a direction to permit the petitioner to participate in the next phase of selection under 20% PSTM quota.

2. The main contention of the learned counsel for the petitioner is that



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under 20% PSTM quota, 155 posts are bound to be earmarked for PSTM candidates and the said reservation is required to be applied at every stage of selection, but the respondents though earmarked 20% posts for PSTM quota, they have not applied the said reservation properly and no cut-off marks is prescribed for PSTM category and thereby, the petitioner was declared as not qualified in the written examination.

3. According to learned counsel for the petitioner, had they prescribed cut-off marks in written exam for PSTM category, the petitioner definitely would have become eligible for further process of selection. In support of his contention, the learned counsel for the petitioner also relied upon a decision rendered by a learned Division Bench of this Court in W.P (MD) No.19112 of 2020 and batch dated 10.02.2021. He also further placed reliance on yet another decision of a learned Division Bench of this Court in W.A (MD) No.457 of 2021 dated 27.07.2021.

4. On the other hand, Mr.P.Kumaresan, learned Additional Advocate General contended that the decisions rendered by the learned Division Benches relied upon by the learned counsel for the petitioner cannot be applied to the



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facts of the present case, as the petitioner has approached this Court belatedly and also on the ground that the said orders were passed in the facts and circumstances of the said cases and the benefit of the said orders were also restricted to the petitioners therein. He also further contended that under similar circumstances, the learned Single Judges of this Court have dismissed similar Writ Petitions in W.P (MD) Nos.3307 and 6014 of 2021 and therefore, contended that this Writ Petition is also liable to be dismissed.

5. This Court has carefully considered the submissions made on either side and also perused the orders passed by learned Division Benches relied upon by the learned counsel for the petitioner.

6. No doubt, the learned Division Bench in W.P (MD) No.19112 of 2020 considered the manner in which the reservation meant for PSTM category is to be applied and found fault with the action of the Respondent No.2 in erroneously applying the said reservation. However, the learned Division Bench having taken note of the fact that the recruitment process has reached the advanced stage, refused to grant general relief, but confined the relief only to the petitioners before the Court at that point of time.



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7. The relevant paragraphs from the order of the learned Division Bench reads as under:-

“ 14. The incidental question is with respect to the relief to be given. We are in respect and agreement with the learned Senior Counsel appearing for the petitioners that there is no question of estoppel, as there is a fundamental error in following the law and therefore, a mere notification cannot be put against the Act. However, we are not dealing with a public interest litigation. Now, much water has flown under the bridge. We are at the final stage of viva-voce, which is actually going on. Therefore, the relief cannot be extended to all others. The learned Advocate General and the learned Additional Advocate General fairly submitted that the petitioners' case can be considered, provided they come within the cutoff marks, if they are treated as a separate category at every stage by following 20% reservation of PSTM category. Therefore, they may not be treated on par with the other candidates, who would



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otherwise come under the reserved category or open category, as the case may be.

15. In view of the above, the respondents are directed to undertake such exercise, insofar as the petitioners before us alone are concerned and if they are otherwise eligible, by following the roster point for PSTM category within the other general category or reserved category, as the case maybe, they should be considered for the next stage of the recruitment process. After undertaking the said exercise, if the petitioners are entitled to, they should be given the appointments accordingly.”

8. Accordingly, the cases of the petitioner therein appears to have been considered and they were selected basing upon their merit in the written examination under PSTM category. It is thereafter, the petitioner having come to know about the order passed by the learned Division Bench appears to have approached this Court by filing the present Writ Petition.

9. As the learned Division Bench has confined the relief only to the petitioners before the Court at that point of time, normally the question of



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extending the benefit of such order to the writ petitioner at this stage does not arise. However, it is brought to the notice of this Court by learned counsel for the petitioner that under similar circumstances, when the learned Single Judge dismissed the Writ Petitions of the same nature like the present Writ Petition, the learned Division Bench in W.A (MD) No.457 of 2021 granted relief by an order dated 27.07.2021. This Court has carefully gone through the order passed by the learned Division Bench. The learned Division Bench by taking into consideration the fact that there was an interim order passed in the said matter reserving one post under PSTM category and also the fact that the petitioner therein has already participated in the selection process, but the results are not declared because of the pendency of the said case and passed appropriate orders directing the appointment of the petitioner therein irrespective of the delay caused in approaching the Court. The relevant paragraphs from the said order reads as under:-

“ 12. The question would be as to whether the appellant's case can be treated to be a case which cannot be treated on par with the cases of candidates, which were dealt with by the Honourable Division Bench in the aforementioned order. Under normal circumstances, the Court will hold that a



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person, who does not approach the Court at the earliest point of time, will not be entitled to any relief. The question would be as to whether the appellant before us was diligent in prosecuting his claim or was lethargic and cannot be granted any relief. The writ petition was dismissed at the admission stage. Immediately thereafter, the present appeal was filed, in which the Honourable Division Bench by order dated 26.02.2021 had directed one seat to be reserved for the appellant.

13. Subsequently, by order dated 08.06.2021, we passed an order noting that pursuant to the interim direction issued by the Court on 26.02.2021, subject to the outcome of the appeal, the appellant was called for viva voce on 15.03.2021 and the appellant had cleared the viva voce and his name finds place in the provisional select list, dated 15.03.2021 and the next stage to the selection process is to undergo medical examination for which, the date is yet to be published. In the light of the same, subject to the outcome of the writ appeal, we permitted the appellant to attend the



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medical test as and when notified. We made it clear that on account of such orders, it will not confer any right on the appellant and the final result shall not be announced and shall be withheld and produced before this Court, after his medical test is over.

14. Considering the facts and circumstances of the case, more particularly that one seat was reserved for the appellant and the appellant was permitted to attend the viva voce subject to the outcome of the writ appeal and he has successfully cleared the viva voce and his name finds place in the provisional select list published on 15.03.2021, we are of the view that the benefit of the decision of the Honourable Division Bench in W.P.(MD) No. 19112 of 2020 etc. batch, dated 10.02.2021 should enure in favour of the appellant as well. We say so, because of the facts and circumstances of the case and the appellant had been vigilant in approaching the Court at the earliest point of time and after the dismissal of the writ petition, he had immediately filed the writ appeal, in which an interim direction was granted to reserve one



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seat. Therefore, the appellant having participated in the selection process, though subject to the outcome of the writ appeal, we are of the view that if the benefit of the order, dated 10.02.2021 in W.P.(MD) Nos.19112 of 2020 etc. batch is not extended to the appellant, it will be inequitable. Admittedly, the selection process is yet to be completed and on account of the appellant being permitted to undergo the medical test, it will in no manner hamper the selection process, which has been completed upto the stage of viva voce and provisional select list has been issued. Therefore, we are of the view that the case of the appellant is quite distinct and different from the other cases, where much after the completion of the selection process, the candidate would approach the Court.”

10. From the above, it is evident that in the facts and circumstances of the said case, the learned Division Bench thought it fit to pass appropriate orders on concluding that the petitioner therein had been vigilant in approaching the Court and also pursued the matter with all seriousness. But, in



the instant case when the petitioner was disqualified as early as on 16.03.2020, the petitioner approached this Court after a lapse of one year and no interim order was passed reserving any post under PSTM category for him to seek appointment in the event of his success in the Writ Petition.

11. No doubt by an order dated 29.03.2021, this Court made it clear that any appointment made will be subject to the result of the Writ Petition. But, as contended by learned Additional Advocate General, all the posts that were notified under the notification in question were already filled-in long back and none of the persons selected and appointed were impleaded as party respondents to the Writ Petition. Thus, this Court is of the considered view that the petitioner is not vigilant in agitating his rights and is only a fence-sitter and approached this Court only after a learned Division Bench passed orders under the similar circumstances on 10.02.2021. Further, it is also brought to the notice of this Court that after filing this Writ Petition, the petitioner has already got selected to the very same post of 'Sub-Inspector' in the subsequent recruitment and he has been working as such as on date.

12. In the light of the above, this Court is of the considered view that this



is not a fit case for exercise of extra-ordinary jurisdiction of this Court under Article 226 of the Constitution of India to interfere with the selection process that had already concluded long back and accordingly, the Writ Petition is dismissed. No costs. Connected Miscellaneous Petitions, if any shall stand closed.

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

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MUMMINENI SUDHEER KUMAR, J.

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