



W.P.No15920 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS
RESERVED ON : 02.07.2024
DELIVERED ON: 08.08.2024

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
ACTING CHIEF JUSTICE
and
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.No.15920 of 2020
and WMP.No.19788 of 2020

R.Sridhar

... Petitioner

Vs.

- 1.Union of India,
Rep by the Secretary to Government (Fire Service),
Home Department, Government Of Puducherry,
Puducherry.
- 2.Additional Secretary (Home),
Home Department,
Government of Puducherry,
Puducherry.
- 3.Divisional Fire Officer,
Fire Service Department,
Government of Puducherry,
Puducherry.
- 4.Mr.D.Suresh
- 5.Mr.A.Gnnanaprgasam,
- 6.Mr.R.Sukumar



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7.The Registrar,
Central Administrative Tribunal,
Chennai-600 104.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the order dated 19.09.2016 in O.A.No.1247 of 2012 passed by the 7th respondent Tribunal and to quash the same by allowing the Original Application and consequently direct the respondents 1 to 3 to consider and appoint the petitioner under MSP Quota.

For Petitioner : Mr.J.Srinivasa Mohan
for M/s.TVJ Associates

For Respondents : Mr.R.Syed Mustafa,
Special Government Pleader for R1 to R3

ORDER

D.KRISHNAKUMAR, ACJ.

This writ petition is directed as against the order of the Central Administrative Tribunal dated 19.09.2016 made in O.A.No.1247 of 2012, in and by which the challenge made by the petitioner to the order of the first respondent dated 29.10.2012 in selecting the respondents 4 to 6 as Fireman under the meritorious sports person quota, came to be dismissed.



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2. Brief facts in nutshell:

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2.1. The petitioner has done B.A. (Sociology) during the year 2004 and Bachelor of Physical Education during the year 2006 in Annamalai University and he is a Meritorious Sports Person [in short "MSP"] by winning Gold Medal in Hockey, representing Annamalai University during the Inter-University Hockey tournament held during the year 2003-2004 and also participated in the 60th and 61st Senior National Hockey Tournaments.

2.2. By Notification dated 01.11.2007, the respondent department invited application for 52 posts of Fireman, to be filled regionwise, classifying the post as "Group D" post. The petitioner belongs to Other Backward Class category and underwent Physical Efficiency Test and Written Examination, but he was not selected and in the selection list, the petitioner's name was showed in the 6th place for Pondicherry. However, the respondents 4 to 6 were selected under the Meritorious Sports Person quota, vide order of the first respondent dated 29.10.2012. The said selection proceedings was challenged by the petitioner before the Central Administrative Tribunal, Chennai in O.A.No.1247 of 2012, which came to



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be dismissed, against which the present writ petition has been filed by the appellant/writ petitioner.

3. Mr.J.Srinivasa Mohan, learned counsel appearing for the petitioner contended that the recruitment notification itself on the face of it is illegal as Group C post has been notified as Group D posts with ulterior motive and regionwise reservation cannot be applied to undermine merit and any appointment on preferential basis on the basis of residence has been held to be violative of Article 16 of the Constitution of India, as laid down by the Hon'ble Supreme Court in ***Kailash Chand Sharma v. State of Rajasthan and Others [(2002) 6 SCC 562]*** and also relied upon the decision in ***Union of India v. CAT and Sindhu Jayarajan [(2008) 5 MLJ 226]*** and prays for interference.

4. Mr.Syed Mustafa, learned Special Government Pleader appearing for the respondents 1 to 3 would contend that as per the Notification, 5% of vacancies was reserved for MSP quota and hence out of 52 posts, 3 posts have to be filled up by the Committee headed by the Special Secretary



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(Department of Personnel & Administrative Reforms) in the meeting dated 07.02.2011 and the selection was made on regional basis separately for Puducherry, Karaikal, Mahe and Yanam as per G.O.Ms.No.63, Home Department dated 14.11.2000 and out of the 3 posts, 2 posts were allotted to Puducherry and 1 post for Karaikal. It is further contended that based on the performance of candidates in various levels of Sports and the Recruitment Committee's recommendation, the respondents 4 and 5 were selected for recruitment to the post of Fireman for Puducherry region and the 6th respondent was selected for recruitment to the post of Fireman for Karaikal Region and the recruitment committee has not kept any waiting list and if the applicant is aggrieved by the region wise reservation, he should have challenged the GO Ms No.62 dated 14.11.2000. It is further contended that the petitioner, having participated in the selection process and becoming unsuccessful, cannot now turn around and question the notification and the selection process after completion of the same. Further, as per the list of order of preference of the MSP quota of the Puducherry region, the applicant, who holds 6th position, has no locus standi to challenge the selection and hence prayed for the dismissal of the writ petition.



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WEB COPY 5. Heard the learned counsel for the parties and perused the materials on record.

6. The point for consideration is whether the prayer sought for by the petitioner is legally sustainable?

7. The fact remains that the petitioner who belongs to Other Backward Class category and a Meritorious Sports Person applied for the post of Fireman in pursuant to the Notification dated 01.11.2007 issued by the first respondent. The petitioner participated in the recruitment process and underwent the Physical Efficiency Test and the Written Examination. As per the notification, horizontal reservation for the posts will be ensured as per the rules of Ex-Servicemen and Meritorious Sports Persons. The first selection list was published by the department on 29.10.2012, in which the respondents 4 & 5 were selected for Puducherry Region and the 6th respondent was selected for Karaikal region. Challenging the selection of the respondents 4 to 6, the petitioner filed original application before the



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Tribunal and pending the same, the second list was published on 12.02.2016 and even in the said list, the petitioner's name did not find place.

8. The contention of the writ petitioner is two-fold. Firstly, he challenges the selection of the 6th respondent based on region wise reservation. Secondly, he contends that though the respondents 4 and 5 expressed their unwillingness to be appointed as Fireman, they have been selected. As regards the first contention is concerned, the petitioner ought to have challenged G.O.Ms.No.62 dated 14.11.2000 issued by the Home Department, Puducherry, in which the existing recruitment rules for the post of Fireman, was amended incorporating for the first time the regional reservation clause. If at all the petitioner had grievances in the recruitment process, he should have challenged the same and instead having participated in the selection process and not selected in the recruitment, the petitioner cannot challenge the recruitment process after completion of the same.

9. That apart, as per the list of order of preference of the Meritorious Sports Person of the Puducherry region arrived by the Deputy Director



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(Sports and Youth Service) Puducherry, the petitioner holds sixth position.

If the petitioner has obtained 3rd position in the list of order of preference of the Meritorious Sports Person of the Puducherry region, his claim might have been considered. Since the petitioner has reached sixth position, he has no locus standi to challenge the selection process before the Tribunal. As rightly contended by the respondents, the petitioner has neither challenged the Government Order in G.O.Ms.No.62 nor the recruitment notification issued by the respondent department.

10. It is trite law that the candidate having participated in the selection process and becoming unsuccessful, cannot subsequently challenge the recruitment process. In the case on hand, the petitioner having participated in the selection process, the petitioner cannot turn around and challenge the selection process, which is legally impermissible. The decisions relied on the learned counsel for the petitioner does not apply to the case on hand for the reason that the facts of the said cases stand on a different footing.

11. It is also pertinent to note that to be noted that the entire selection



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process was over long back and the respondent did not maintain any waiting list and at this distant point of time, the claim of the petitioner cannot be considered. The Tribunal has considered all these aspects in proper perspective and rightly rejected the claim of the petitioner. This Court finds no reason to interfere with the order of the Tribunal and finds no merit in the writ petition.

12. In the light of the reasons assigned above, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is dismissed.

(D.K.K. ACJ.) (K.B. J.)
08.08.2024

Internet: Yes/No
Index : Yes/No
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To
1.The Secretary to Government (Fire Service),
Union of India,
Home Department, Government Of Puducherry,
Puducherry.

D.KRISHNAKUMAR, ACJ.
and



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K.KUMARESH BABU, J.

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2.Additional Secretary (Home),
Home Department,
Government of Puducherry,
Puducherry.

3.Divisional Fire Officer,
Fire Service Department,
Government of Puducherry,
Puducherry.

Order in
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