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W.P.No. 1695 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2024

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.No. 1695 of 2017

and

W.M.P.No. 1664 of 2017

S. Muniyan

... Petitioner

Vs.

1.The Director General of Police,
Kamarajar Salai,
Mylapore,
Chennai – 04.

2.The Commandant,
Tamilnadu Police Training Centre,
Aavadi, Chennai – 54.

... Respondents

Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent in Na.Ka.No.A1/3898/2016 dated 30.08.2016 and quash the same and consequently direct the respondents to appoint the petitioner as Bugler Constable with retrospective effect from 05.05.2008 with monetary benefits.

For Petitioner : Mr. A. Rajaram

For Respondents : Mr. M. Alagu Goutham,
Government Advocate



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ORDER

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This Writ Petition has been filed in the nature of certiorarified mandamus seeking the records pertaining to the impugned order passed by the second respondent in Na.Ka.No.A1/3898/2016 dated 30.08.2016 and quash the same and consequently direct the respondents to appoint the petitioner as Bugler Constable with retrospective effect from 05.05.2008 with monetary benefits.

2. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents and perused the records.

3. The case of the petitioner is that he was a trained and qualified bands man. On 28.11.2017, the respondents called for applications to fill the post of Bugler Constables of 737 vacancies. The petitioner applied for the same. He was called for the selection procedure which was held on 05.05.2008. It was informed orally that he was qualified and appointment order would be sent to his address. But no communication was sent to him. On 31.01.2014, he requested for the status of the selection process under RTI Act, for which he received a reply on 15.04.2014 wherein it is stated that he was not selected. Similarly situated persons filed W.P.No.7361 of 2009 before this Court. As per the order of the Court, the case of the petitioners therein was considered and they joined in service on 02.12.2012. Out

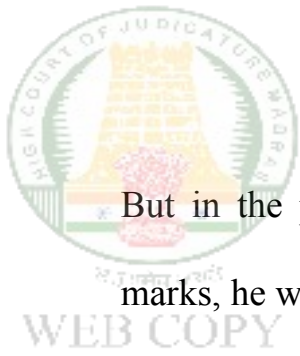


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of 737 vacancies, only 274 vacancies have been filled. The rest are not filled. The petitioner made a representation to the respondents and the same was rejected by proceedings dated 30.08.2016 which is impugned in the present writ petition.

4. A Counter affidavit has been filed on behalf of the respondents. In the said counter affidavit, it is averred that the petitioner applied for the post of Band Police Constable and he appeared before the selection committee on 05.05.2008. The total marks of the test is 100 and the petitioner secured 39 marks out of 40 pass marks. Hence, the petitioner was not eligible for the post of Band Police Constable. The petitioner had submitted a petition on 08.07.2016 to the first respondent with a copy to the second respondent during the month of July 2016 requesting posting order for the post of Band Police Constable. The petitioner's request was rejected as he has not secured pass marks and not eligible for the post of Band Police Constable and the same was informed to the petitioner by impugned order.

5. The respondents in their counter, it is also averred that the order passed by this Court in W.P.No.7361 of 2009 is not applicable to the petitioner's case. The said writ petition was filed seeking for consideration for relaxation of age and qualification. As such, in the light of the order dated 05.10.2009 in W.P.No.7361 of 2009, the request of the petitioners therein was considered and they were appointed.



But in the present case, as the petitioner secured only 39 marks, out of 40 pass marks, he was not eligible for the post of Band Police Constable.

6. Both learned counsels also advanced their arguments in the same lines.

7. Having heard the submissions of the respective counsels and upon perusal of the materials available on record, it appears that the petitioner has participated in the selection process for the post of Band Police Constable. He also appeared before the selection committee on 05.05.2018 pursuant to the call letter dated 19.04.2018. The petitioner may be under the impression that he will get appointment order from the respondents. On perusal of the averments of the counter affidavit, it appears that the total marks for the test is 100 and pass mark is fixed at 40. But, the petitioner secured 39 marks only. In view of the fact that the petitioner could not get the pass marks, the respondents could not considered him for appointment. In our view, as the petitioner failed to get the pass marks, he is not entitled for appointment.

8. On perusal of the order dated 05.10.2009 in W.P.No.7361 of 2009, it appears that the facts of the case in the said writ petition and the facts in the present writ petition are different and as such, the said order is not applicable to the petitioner's case.



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9. For the above reasons, in the considered opinion of this Court, the petitioner failed to make out any case, interference of this Court in this writ petition.

Accordingly, this Writ Petition is dismissed.

10. Consequently, connected miscellaneous petition is closed.

11. There shall be no order as to costs.

05.02.2024

Index :Yes/No

Neutral Citation :Yes/No

AT

To

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Mylapore, Chennai – 04.

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Aavadi, Chennai – 54.



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BATTU DEVANAND, J.

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