



W.A.(MD).Nos.1218 to 1221 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 26.02.2024

CORAM:

THE HONOURABLE **MRS.JUSTICE V.BHAVANI SUBBAROYAN**

and

THE HONOURABLE **MR.JUSTICE K.K.RAMAKRISHNAN**

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and

C.M.P.(MD).Nos.2, 2, 3, 2, 3, 2 and 3 of 2013

1.The Director,
Tamil Nadu Uniformed Services Recruitment Board,
No.4, 9th Cross Street,
Anna Salai, Chennai.

2.The Director General of Police,
Santhome,
Chennai.

... Appellants in all W.As.

Vs.

M.Shanmugam
S.David Antony
K.Saravanan
V.Sivaperumal

... Respondent in W.A.(MD).No.1218 of 2013
... Respondent in W.A.(MD).No.1219 of 2013
... Respondent in W.A.(MD).No.1220 of 2013
... Respondent in W.A.(MD).No.1221 of 2013

Prayer: Writ Appals are filed under Clause 15 of Letter Patent, against the order passed by this Court in W.P.(MD).Nos.11904, 11903, 11874 and 11872 of 2012, dated 15.10.2012.



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For Appellants : Mr.Veera Kathiravan
Additional Advocate General
assisted by Mr.A.K.Manikkam
Special Government Pleader

COMMON JUDGMENT

(Judgment of the Court was delivered by **K.K.RAMAKRISHNAN, J.**)

Since the issue involved in these writ appeals is one and the same, they have been taken up together and disposed of by this common judgment.

2. These writ appeals have been filed by the State challenging the order passed by the learned single Judge in W.P.(MD).Nos.11904, 11903, 11874 and 11872 of 2012 etc., batch dated 15.10.2012, wherein the writ petitioners/Ex-servicemen have sought for issuance of a Writ of Certiorarified Mandamus, to call for the records from the first respondent in Notification in Advertisement No.112, dated 21.03.2012 and to quash the same with regard to not necessary to attend the physical test to the Ex-servicemen for the above said selection and direct the respondents to appoint the petitioners as Police Constable Grade – II, based on the written test conducted on 24.06.2012.



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3. The learned single Judge of this Court allowed these writ petitions by holding that the reading of Rule 14 of the Tamil Nadu Police Subordinate Rules shows that Ex-servicemen, who served as Driver, Auto Mechanics, Auto Electricians and Armourers are exempted from undergoing physical measurement test and physical efficiency test for the post of Constable Grade II. Further, it is well settled that any advertisement or instruction which go contrary to the Statutory Rules has no force of law. Therefore, the failure of the petitioners in either the physical measurement test or physical efficiency test cannot be a ground to reject their candidature.

4. According to the appellants, as per Rule 14 of Special Rules for Tamil Nadu Police Subordinate Service, only four categories ie., Driver, Auto Mechanics, Auto Electricians and Armourers are exempted from undergoing physical measurement test and physical efficiency test for the post of Grade II Police Constable. The respondents/petitioners were doing general duty in the Army and they have not come under the above said four categories. Hence, they are not eligible for exemption from undergoing the physical measurement test and physical efficiency test. Further, as per the direction of this Court, seven candidates were already considered for the post of Grade – II Police Constable,



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since they have come under the category, as per Rule 14 of Special Rules for Tamil Nadu Police Subordinate Service. The respondents were come under the general category and they cannot get the benefit under the Rule and prayed for allowing these writ appeals.

5. Heard Mr.Veera Kathiravan, learned Additional Advocate General assisted by A.K.Manikkam, learned Special Government Pleader appearing for the appellants and perused the materials available on record.

6. The order of this Court dated 09.10.2012 in W.P.Nos.25953 to 25957, it has been held that a perusal of the above provision would make it very clear that a candidate should essentially possess three qualifications namely, the educational qualification, age qualification and qualification in physical measurement and physical efficiency. So far as Class II of Proviso 2 to Rule 14 is concerned, it gives relaxation to the candidates who had rendered war service in the matter of educational qualification. Here, the term 'war service' needs to be underlined. Similarly, Annexure - I second proviso in Column 2 speaks of relaxation in the matter of upper age limit for Ex-Servicemen which states that the upper age limit shall be 45 years for Ex-servicemen whereas the upper age limit for other is only 24 years. Here, the



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language used is not candidates rendered war service, but the language is Ex-Servicemen. It indicates that for getting age relaxation, the candidates need not have participated in war. Finally, Clause - II to Exception to the Table annexed to Category 7 in Annexure - I speaks of relaxation in the matter of physical measurement and physical efficiency. It states that Ex-servicemen served as Drivers, Auto Mechanics, Auto Electricians and Armourers shall be exempted from undergoing these tests. Here, the language used again needs to be carefully underlined. This provision does not encompass into its sweep all Ex-servicemen, instead, it covers only the Ex-servicemen who served as Drivers, Auto Mechanics, Auto Electricians and Armourers. Thus, it is crystal clear that it does not cover all the Ex-servicemen, who are entitled for this exemption in respect of measurement and physical efficiency and it is only those Ex-servicemen, who have worked as Drivers, Auto Mechanics, Auto Electricians and Armourers alone are entitled for this relaxation.

7. Further, in Letter No.26162/Pol.3/2009-7, dated 18.04.2011, the Government have issued clarification for the request which was put forth by the Director of Ex-Servicemen Welfare in his reference letter No.5754/2009/V2, dated 16.03.2009 and letter No.14549/2008/C2, dated 11.08.2008 and 20.02.2007 for the appointment of Ex-Servicemen as Grade II Police



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Constables and Sub Inspector of Police. Clarification on these issues are given below:

i) With reference to the request of the Directorate of Ex-Servicemen's Welfare to extend the exemption from PET now in vogue for Drivers, Auto Mechanics, Auto Electricians and Armourers to all Ex-Servicemen irrespective of their Trade, after detailed discussion and examination, for the following main reasons, it is considered that PET is very much essential for police recruitment.

a) Since the Physical Endurance Test norms in Tamil Nadu for selection as Grade II Police Constable is already lenient/liberal, there is no need for further exemption.

b) The departmental candidates (Head Constables) those who appear for Physical Endurance Test for promotion to the post of Sub Inspector of Police who are generally in the age group of 40 – 50 are able to clear the Physical Efficiency Test. Hence, the Ex-servicemen who are in the similar age group can easily compete in the Physical Endurance Test.

c) Moreover, the Ex-servicemen are not deployed as Drivers, Auto Mechanics, Auto Electricians and Armourers in Police Department, but are being posted as regular Constables and are doing the regular constabulary work which is a must in Police Department. Hence, Physical fitness is an absolute must for being selected as Police Constables.



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Hence, it is considered not to give any exemption to any post for the

Ex-servicemen in the State Police Force and the **Exemption now being given for the four Traders may also be withdrawn with immediate effect.**

ii) With reference to the request of the Director, Directorate of Ex-servicemen's Welfare to reserve 5% reservation for the Ex-servicemen in State Police Service as now being given in State Government Services for Group 'C' category, 5% reservation for Ex-servicemen to the post of Grade II Police Constable under 'C' Category will be given effect in future recruitments.

8. Further, in Letter No.26129/Pol.3/2009-8, dated 12.05.2011, the Government had issued the following amendment:

In the Government Letter No.26129/Pol.3/2009-7, dated 18.04.2011, paragraph (i) (b) may be deleted and the following may be substituted:

“Before 2010, the departmental candidates (Police Constables & Head Constables) who were up to the age of 45 years had to appear for Physical Efficiency Test for promotion to the post of Sub Inspector of Police. These candidates were able to clear the Physical Efficiency Test. Hence, the Ex-servicemen who are in the similar age group can easily compete in the Physical Efficiency Test”.



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ii) In the said letter after paragraph (i)(c), for the sub para “Hence with immediate effect”, the following shall be substituted:-

“Hence, it is considered not to give any exemption in Physical Measurement / Physical Endurance / Physical Efficiency Test to any post of Ex-Servicemen in recruitments done by Tamil Nadu Uniformed Services Recruitment Board and **the exemption now being given for the four Traders may also be withdrawn with immediate effect**”.

“In the light of this decision, the exemption granted from Physical Measurement Test / Endurance / Physical Efficiency Test to ex-personnel of Central Para Military Forces who have served as Drivers, Auto Mechanics, Auto Electricians and Armourers (vide G.O.Ms.No.1183, Home (Pol.3) Dept., dated 11.12.2006) is also withdrawn.

9. In view of the above, it is made clear that for the Ex-Servicemen also appropriate Physical Endurance Test has to be conducted. Further, the Notification dated 21.03.2012 was not challenged. At present, no such special categories are there for the Ex-servicemen.



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WEB COPY 10. In the result, these Writ Appeals are allowed. No costs.

Consequently, the connected Miscellaneous Petitions are closed.

[V.B.S.,J.] & [K.K.R.K.,J.]
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Index : Yes/No
Internet : Yes/No
NCC : Yes/No

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