



WP.(MD).No.1224 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 18.03.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.1224 of 2024

and

W.M.P.(MD)Nos.1249 to 1251 of 2024

R.Senthil Kumar

... Petitioner

Vs.

- 1.The Secretary,
Ministry of Home Affairs,
Police Division II,
North Block,
New Delhi – 110001.
- 2.The Secretary,
State of Tamil Nadu,
Department of Social Welfare,
Secretariat, Fort St. George,
Chennai -600 009.
- 3.The Secretary,
State of Tamil Nadu,
Department of Labour & Employment,
Secretariat, Fort St. George,
Chennai – 600 009.
- 4.The Additional Chief Secretary,
State of Tamil Nadu Home (Police -III) Department,
Secretariat, Fort St. George,
Chennai -600 009.



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5.The Director General of Police
/The Chairperson,
Tamil Nadu Uniformed Service Recruitment Board,
Pantheon Road, Egmore,
Chennai-600 008.

6.The Member Secretary,
Tamil Nadu Uniformed Service Recruitment Board,
Pantheon Road, Egmore,
Chennai-600 008.

7.The Superintendent of Police,
Tamil Nadu Uniformed Service Recruitment Board,
Pantheon Road, Egmore,
Chennai-600 008.

... Respondents

PRAYER : Writ Petition 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 notification No.2/2023 dated 08.08.2023 and consequentially the impugned information Brochure published in their Official Website on the file of the respondent no.6 in so far as the granting relaxation to serving Military personnel who are going to retire within one year from the last date of receipt of online application and the consequential impugned proceedings in Rc.No.R4/217/2882/2023 dated 15.09.2023 on the file of the respondent no.7 and to quash the same as illegal and consequently for direction directing the respondents no 5 and 6 to extend the benefits of age relaxation to serving Central Para-military force personnel who are going to retire within one year from the last date of receipt of online application in the Tamil Nadu Uniformed Services Recruitment Board.

For Petitioner

: Mr.Lajapathi Roy, Senior counsel
For M/s.Lajapathi Roy Associates



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For Respondents

: Mr.P.Veera Kathiravan,
Additional Advocate General
Assisted by
Mr.R.Ragavendran,
Government Advocate

ORDER

This Writ Petition has been filed for issuance of a Writ of Mandamus, seeking to quash the impugned notification No.2/2023 dated 08.08.2023 and consequentially the impugned information Brochure published in their Official Website on the file of the respondent no.6 in so far as the granting relaxation to serving Military personnel who are going to retire within one year from the last date of receipt of online application and the impugned proceedings in Rc.No.R4/217/2882/2023 dated 15.09.2023 on the file of the respondent no.7 and to direct the respondents no 5 and 6 to extend the benefits of age relaxation to serving Central Paramilitary force personnel who are going to retire within one year from the last date of receipt of online application in the Tamil Nadu Uniformed Services Recruitment Board.

2.The petitioner is appointed in the post of Constable in the Central Reserve Police Force. He was further promoted to the post of Head Constable in the year 2018. He had rendered a duty under



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the Central Reserve Police Force for about 20 years. The sixth respondent has offered the benefits of age relaxation to the Central Para-Military Force personnel belonging to the Border Security Force (BSF), Central Reserve Police Force (CRPF), Central Industrial Security Force (CISF), Sashastra Seema Bal (SSB), Indo-Tibetan Border Police (ITBP) in common recruitment for the post of Grade II Police Constables, Grade II Jail Warders and Firemen. On 08.08.2023, the sixth respondent had published a notification in notification No.2 of 2023 for a total number of 3,359 vacancies in common recruitment for the post of Grade II Police Constables, Grade II Jail Warders and Firemen for the common recruitment – 2023. The petitioner was completely disappointed by the said Notification in the way, the serving Central Para-Military Force personnels have been excluded from the ambit of the said Notification. Without any prior information, unfortunately the CAPF serving personnel have been excluded from the ambit of benefits of age relaxation. In view of the same, this Writ Petition came to be filed, challenging the impugned Notification No.2 of 2023 dated 08.08.2023 and the consequential impugned information brochure published in the Official website of the sixth respondent and as far as the granting relaxation to serving Military personnel, who are



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going to retire within one year from the last date of receipt of online application and the consequential impugned proceedings dated 15.09.2023 on the file of the seventh respondent and consequentially seeking to direct the respondents 5 and 6 to extend the benefits of age relaxation to the serving Central Para-Military Force personnel, who are going to retire within one year from the last date of receipt of online application in the TNUSRB.

3.The learned Senior Counsel appearing for the petitioner submitted that the Central Armed Police Forces of the Union under Ministry of Home Affairs namely Border Security Force, Central Reserve Police Force, Central Industrial Security Force, Sashastra Seema Bal and Indo-Tibetan Border Police were constituted after Independence by the Central Acts as Armed Forces of the Union for ensuring the security of the Borders of India and for the matters connected there with. He further submitted that an office memorandum No.27011/100/2012 - R & W dated 23.11.2012 issued by the first respondent has approved the proposal of the Home Ministry on 01.11.2012 to declare the retired Central Armed Police Force personnel as Ex-CAPF and further directed the State Governments concerned to extend the benefit to Ex-CAPF on par



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with ex-servicemen of Armed Forces like Army, Navy and Air Force.

Following the said memorandum, the other states have extended the benefits of ex-servicemen of Armed Forces to Ex CAPF.

4.From the very beginning that is from 1991, the sixth respondent Recruitment Board has recruited CAPF personnel under the serving Central Paramilitary Force personnel. However, in the impugned notification, it is shocking to understand that the serving CAPF Force personnel are not even eligibility to apply for the job in the respondent Police Department hereafter.

5.He further insisted that in similar circumstances, this Court in W.P.(MD)No.24972 of 2021 in the case of ***K.Muruganandam v. the Secretary, Ministry of Home Affairs***, while seeking for a direction to consider a candidature under the ex-servicemen quota in the light of the office memorandum dated 23.11.2012, issued by the first respondent for the admission to Veterinary Doctor degree course for the year 2021 – 2022, this Court followed the order dated 04.08.2017 passed in W.P.(MD)No.18665 of 2017 and allowed the Writ Petition, observing that if a person who had served on the border of this Country is not entitled to be treated under the



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category of ex-servicemen, it is nothing but an utter disrespect shown to such great service rendered by such person. The stand of the University in this aspect is very unfortunate, hyper technical and cannot be appreciated even for the sake of argument. He further contended that earlier the sixth respondent had issued a Notification excluding the Ex-Central Paramilitary Force from the ambit of 5% reservation for ex-servicemen, though the recruitment board had extended the benefits of age relaxation and special reservation of ex-servicemen to the ex-Central Paramilitary Force personnel in the direct recruitment of Sub Inspectors of Police (Taluk and AR) - 2022 in the notification No.1 of 2022 dated 08.03.2022. However, the respondent recruitment Board had failed to extend the same for the common recruitment notification No.2 of 2022 dated 30.06.2022. Thus, the said notification in No.2 of 2022 was challenged in W.P.(MD)No.22709 of 2022, batch and this Court was pleased to hold that the petitioners who were Ex-CAPF personnels do not have right to be treated on par with ex-servicemen but they are entitled to age concession as set out in G.O.Ms.No.1183, Home (Police 3) Department dated 11.12.2006. He insisted that the attitude of the six respondent carving out the benefit of granting opportunity to the serving CAPF personnel to



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participate in the impugned recruitment notification is a complete violation of Article 14, 16 and 21 of the Indian Constitution and hence, the same is liable to be set aside. Contending the said notification as highly arbitrary, the learned Senior Counsel pressed for allowing the Writ Petition.

6.The question as to whether Ex-CAPF will come under the category of ex-servicemen has been dealt with by this Court in the batch of Writ Petitions in W.P.(MD)Nos.22709 of 2022 dated 30.11.2022 and the relevant portion of the same is extracted as follows:-

“The learned counsel for the petitioners relied on the Office Memorandum bearing No.27011/100/2012-R&W dated 23.11.2012 which states that the State/UT Governments concerned may extend suitable benefits to them on the lines of the benefits extended by the State/UT governments to the Ex-Servicemen of Defence Forces. It is relevant to note here that the aforementioned Office Memorandum was issued by the Director (Personnel), Ministry of Home Affairs, Police Division – II, Resettlement and Welfare Directorate).

2.There is no merit in this contention. As rightly pointed out by the learned Additional Advocate General, the Defence Ministry had issued a subsequent communication dated 19.02.2013 bearing No. 0515/Gen/DGR/Emp-3 holding that Ex-CAPF are not Ex-Servicemen and any benefits to be granted on the lines of ex-servicemen will be provided by the Resettlement



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and Welfare Directorate of Police Division of Home Ministry. This communication expressly refers to the earlier Office Memorandum issued by the Ministry of Home Affairs, Police Division – II, Resettlement and Welfare Directorate on 23.11.2012. In view of this stand taken by the Defence Ministry, the State of Tamil Nadu has taken a policy decision not to treat the Ex-CAPF personnel on par with ex-servicemen. This in my view falls entirely within the realm of policy decision of the Government. It is relevant to note here that even the earlier Office Memorandum dated 23.11.2012 is advisory in nature. It only states that the State/UTs concerned may extend the suitable benefits to CAPF personnel on the lines of the benefits extended to Exservicemen of defence forces. It is for the State government to take a call in the matter and the petitioners do not have any legal right as such. Of course, it is open to them to move the Central or State Government to treat them on par with Ex-servicemen.

3.As regards the second issue, the petitioners are on a stronger wicket. My attention is drawn to G.O (Ms) No.1183, Home (Pol.3) Department, dated 11.12.2006. The relevant paragraphs read as under :

“i)The Ex-Personnel of the Central Para-Military Forces like Central Reserve Police Force, Central Industry Security Force, Border Security Force, Indo-Tibetan Border Police, etc., shall be given age concession upto a maximum age limit of 45 years for recruitment to the posts of (i) Sub Inspector of Police (Taluk Police/Armed Reserve/Tamil Nadu Special Police) and (ii) Grade II Police Constable, subject to the condition that their candidature shall be considered only for a period of three years after their date of discharge from their unit; (ii)The Ex-Personnel of the Central Para-Military Forces, who have served as Drivers,



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Auto-Mechanics, Auto Electricians and Armourers, shall be exempted from Physical Measurement Test and Physical Efficiency Test in the recruitment to the post of Grade-II Police Constable alone.”

4.I wanted to know from the learned Additional Advocate General if this G.O is holding good. Today, when the matter was taken up for disposal, the learned Additional Advocate General submitted that the said G.O is still holding good. Therefore, the second issue raised in this writ petition is answered in favour of the petitioners. While the petitioners do not have right right to be treated on par with Ex-servicemen, they are entitled to age concession as set out in G.O (Ms) No.1183, Home (Pol.3) Department, dated 11.12.2006.

5.WP(MD)Nos.22709 & 23404 of 2022 stand partly allowed. In view of the order passed in WP(MD)Nos.22709 & 23404 of 2022, no further orders are necessary in WP(MD)No. 23402 of 2022. The petitioners in this writ petition are still serving in BSF and they have not even applied in response to the impugned recruitment notification. Hence, WP(MD)No.23402 of 2022 is disposed of. No costs. All connected miscellaneous petitions are disposed of.

7.The learned Additional Advocate General submitted that the earlier office memorandum dated 23.11.2012 is only advisory in nature and following which, the Defence Ministry of Union of India had also communicated vide a communication dated 19.02.2013 holding that Ex-CAPF are not ex-servicemen. Only in view of this stand taken by the Defence Ministry, the State of Tamilnadu has



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taken a policy decision not to treat the Ex-CAPF personnel on par with ex-servicemen. He further submitted that recruitment notification cannot be challenged by an unrelated person under the principles of exclusion. Further reiterated that the decision as to extend the benefits of serving military personnels who participate in the recruitment by granting age relaxation without extending the same benefit to the serving Central Para-Military Force personnel is a policy decision of the State Government and the same cannot be and need not be interfered with.

8.The learned Additional Advocate General further submitted that the petitioner has prayed to extend the benefit of age relaxation to serving Central Para-Military Force personnel who are going to retire within one year from the last date of receipt of online application in TNUSRB recruitments. He elaborated that age relaxation to ex-servicemen/serving persons, who are going to retire within one year from the last date of receipt of application is provided in accordance with the amendment made by the State of Tamil Nadu in the Tamil Nadu State and Subordinate Service Rules vide G.O.Ms.No.89, Personal and Administrative Reforms (s) Department dated 12.08.2015. That apart he insisted that



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G.O.Ms.No.1183, Home (Police 3) Department dated 11.12.2006, which extends the benefit of age relaxation as provided to ex-servicemen does not specify about serving CAPF personnel but Ex-CAPF personnel only. In view of the same, TNUSRB being a recruiting agency of the Government of Tamilnadu, is bound by Government Orders and accordingly, TNUSRB adopted the norms and procedures stipulated by the Government by providing reservation and age relaxation in common recruitment and age relaxation in the recruitment of Sub Inspectors to Ex-servicemen (Army, Navy and Air force) only and not extending the same benefit to the Ex-CAPF personnel. Accordingly, he pressed for dismissal of the Writ Petition.

9.Heard the learned counsel appearing for the petitioner, the learned Additional Advocate General appearing for the respondents and carefully perused the entire materials available on record.

10.As rightly pointed out by the learned Additional Advocate General, the benefit of age relaxation to Ex-servicemen/serving persons who are going to retire within a period of one year from the last date of receipt of application has been provided only in



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accordance to the G.O.Ms.No.89 Personal and Administrative Reforms (S) Department dated 12.08.2015. For the sake of convenience, the relevant portion of the same is extracted as follows:-

“(2)In Part II-General Rules in Rule 52,-

(iv)after sub-rule (b) as so deleted, the following sub-rule shall be added, namely:

(c)persons serving in the Armed Forces shall be eligible to apply for posts under the Government if they are due to complete the specified term of their engagement in the Armed Forces within one year from the last date prescribed by the appropriate authority for receipt of the application in respect of a particular recruitment. All such candidates while making their applications shall submit a self undertaking and a form of certificate from their Commanding Officer in the format given in Schedule VII to this part.”

11.A careful reading of G.O.Ms.No.1183, Home (Police 3) Department dated 11.12.2006 would reveal that the benefit of age relaxation as provided to ex-servicemen does not specify about serving CAPF personnel, but only Ex-CAPF personnel. The relevant Clause in the said G.O. is extracted as under:-

“The Ex Personnel of the Central Para-Military Forces like Central Reserve Police Force, Central Industrial Security Force, Border Security Force, Indo-Tibetian Border Police, etc., shall be given age concession upto a maximum age limit of 45 years for



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recruitment to the posts of (I) Sub-Inspector of Police (Taluk Police/Armed Reserve/Tamil Nadu Special Police) and (ii) Grade II Police Constable, subject to the condition that their candidature shall be considered only for a period of three years after their date of discharge from their unit."

12.It is only on the basis of G.O.Ms.No.1183, Home (Police 3) Department dated 11.12.2006, this Court in W.P.(MD)No. 22709 of 2022, batch on the assertion of the learned Additional Advocate General in the aforesaid case that, still the said G.O.Ms.No.1183 dated 11.12.2006 holds good, has held that though the petitioners, who were CAPF personnel in the aforesaid petition, do not have the right to be treated on par with ex-servicemen, they are entitled to age concession as set out in G.O.Ms.No.1183 dated 11.12.2006. However, when the said G.O. has specifically included Ex-CAPF personnel, but has specifically excluded serving CAPF personnel, the respondent recruitment board as a recruiting agency, bound by the said G.O.Ms.No.1183 has duly excluded giving age relaxation to the serving CAPF personnel in the recruitment of Sub Inspectors.

13.In view of the same, this Court is not inclined to interfere with the impugned Notifications and the consequential prayers sought for by the petitioner are held not maintainable.



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14. Accordingly, the Writ Petition fails and the Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

18.03.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes

Mrn

To

1. The Secretary,
Ministry of Home Affairs,
Police Division II,
North Block,
New Delhi – 110001.
2. The Secretary,
State of Tamil Nadu,
Department of Social Welfare,
Secretariat, Fort St. George,
Chennai -600 009.
3. The Secretary,
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4. The Additional Chief Secretary,
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L.VICTORIA GOWRI, J.

Mrn

6.The Member Secretary,
Tamil Nadu Uniformed Service Recruitment Board,
Pantheon Road, Egmore,
Chennai-600 008.

7.The Superintendent of Police,
Tamil Nadu Uniformed Service Recruitment Board,
Pantheon Road, Egmore,
Chennai-600 008.

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