

(2013) 01 MAD CK 0151

In the Madras High Court

Case No : Writ Petition No. 29188 of 2012 and M.P. No"s. 1 to 3 of 2012

Saravana Kumar

APPELLANT

Vs

The State of Tamil Nadu and Others

RESPONDENT

Date of Decision : 17-01-2013

Acts Referred:

Citation : (2013) 01 MAD CK 0151

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : J.T. Rasjasuriya, for the Appellant; V. Subbiah, Spl. G.P., for the Respondent

Final Decision : Dismissed

Judgement

K. Chandru, J.—In this writ petition, the petitioner seeks for a direction to the respondents to direct the 2nd respondent namely, Tamil

Nadu Uniformed Services Recruitment Board to select him in the post of Armed Reserve Police Constable or Jail Warder under the Executive

Ward Category in the Tamil Nadu Uniformed Service Recruitment Board, for which, a common recruitment was made for the year 2012. When

the writ petition came up on 25.10.012, this Court directed the learned Government Advocate to get instructions from the respondents and also it

was made clear that any appointment, in the meanwhile, will be subject to the result of the writ petition. Pursuant to the selection conducted by the

2nd respondent, a select list was published in respect of which applications were called for and the petitioner belonging to Pudukottai District did

not find his name in the select list and hence, instituted the present case.

2. On notice, a counter affidavit has been filed by the second respondent dated

6.12.2012. The relevant files were also produced for perusal of this Court. The petitioner, pursuant to the notification issued, sent an application for being considered for the post of Armed Reserve Police Constable. In OMR application form in Column No. 15, it clearly shows that the petitioner has made preference only for Armed Reserved Police Constable and for preference to other columns relating to Jail Warder, he has not given any preference. In the information brochure given along with the application form, it was clearly stated as to how the candidate should fill up the application form given to them and in respect of the preference, the information itself contains that they should indicate their preference in various columns provided under Column No. 15 of the OMR sheet. Therefore, the petitioner cannot insist for the post of Jail Warder stating that his name should be considered for the said post when he never indicate the preference to the said post of Jail Warder. To this extent, the second relief claimed by him also cannot be countenanced.

3. During selection, the authorities have given preference for the candidates under Ward cum Dependent quota. The petitioner in respect of paragraph No. 22 have stated that he wants his name to be considered under Executive Ward category. However, the respondent has stated in the counter affidavit that insofar as Ward category is concerned, it is confined to the department to which the guardian of such ward is working and it is stated that since the petitioner's father served in the Jail Department, he was only eligible for being considered for the post of Jail Warder. He has not given his option of preference for being considered for the post of Jail Warder. Therefore, he was considered under the Armed Reserve open quota. Though the petitioner has stated that such a classification which he terms as micro classification or mini classification in reservation is against the constitutional law as per the judgment reported in E.V. Chinnaiah Vs. State of Andhra Pradesh and Others,), it is not clear that the said judgment will have any application to the present case as in that case, the question arises for consideration is whether among the list of schedule caste candidate, for which, notification was made by the President of India, any further classification can be done by the State Government. In respect of the same, the Court took the view that sub-classification cannot be done at the instance of the State Government. In the present case, in

the information brochure page No. 2, it was clearly stated in Column No. XV that preference will be given only in respect of the post for which the

candidate has given their option and if they do not indicate in the application form for preferring their case for several posts, their request for the

other posts will be denied. This brochure is supported by the order of the State Government made in G.O.Ms. No. 968, Home Department dated

3.10.2001 relating to combined recruitment for Police, Prison and Fire Service Department wherein it is clearly stated that if any person opt for

only one post, then his turn is not reached for that category, he will lose his chance even though he may be eligible as per merit list for the category

post of Gr. II, Jail Warder or Fireman. Therefore, the petitioner now at this point of time cannot seek to take a claim in respect of the post of Jail

Warder for which he never made any preference, when preference to his claim being considered for the post of Armed Reserve.

4. It was stated that the department has conducted written test and physical efficiency test and also granted special mark for possession of NCC,

NSS and Sports Certificate and the maximum marks prescribed is 100 marks. The petitioner has secured 44 marks in the written test and 15

marks in the physical efficiency test. Therefore, the total marks obtained by the petitioner is 59 marks. Since the petitioner belongs to MBC

community, the cut off mark under open quota is 73 marks. Since the petitioner has secured only 59 marks, he was not selected. The contention of

the petitioner that if he had been considered for the post of Jail Warder, for which 54 marks had been prescribed, he would have been selection,

cannot be countenanced, since the petitioner never opted for being considered for the post of Jail Warder and the respondent is correct in stating

that for considering the case under the Armed Reserve, unless the department in which, the candidate's guardian was serving alone will be the

criteria. Under such circumstances, the writ petition cannot be entertained. Hence, the writ petition stands dismissed. No costs. Consequently,

connected miscellaneous petitions are closed.