

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:-29-6-2005

Coram:-

The Hon'ble Mr. Justice P. SATHASIVAM
and
The Hon'ble Mr. Justice AR. RAMALINGAM

Writ Petition Nos. 7560 and 7561 of 1999

Chandrasekara Pandian. .. Petitioner in W.P.No. 7560 of 1999.

Easwaralingam. .. Petitioner in W.P.No. 7561 of 1999

Vs.

1. The Secretary to Government,
Home (Police Department),
Fort St. George, Chennai-9.
2. The Director General of police,
Chennai.
3. The Director General of Police and
Chairman, Tamil Nadu Uniformed
Service Recruitment Board,
4, 9th Cross Street, Indira Nagar,
Chennai-20.
4. The Tamil Nadu State Administrative
Tribunal, Chennai. .. Respondents in both W.Ps.

Writ Petitions filed under Article 226 of the Constitution of India, to issue Writs of Certiorarified Mandamus, calling for proceedings of 4th respondent in O.A.No. 5591 of 1997 dated 21-9-1998; and O.A.No. 5818 of 1997 dated 21-9-1998 respectively, quash the same and consequently direct the respondents to appoint the petitioners to the post of Sub Inspector of Police on the basis of selection initiated pursuant to Notification dated 18-10-1995.

For petitioner in both W.Ps.: Mrs. S. Chitra Sampath.

For respondents:-Mr. Suresh Viswanath, Government
Advocates.

COMMON ORDER

(Order of Court was made by P. Sathasivam, J.,)

Both petitioners, who are unsuccessful candidates to the post of Sub Inspector of Police, challenge the order of Tamil Nadu Administrative Tribunal dated 21-9-1998 in these two writ petitions.

2. The main grievance of the petitioners is that the selection based on G.O.Ms.No. 1054-Home-Police III Department dated 13-7-1995 and relaxation of Rule 14 of the Special Rules for Tamil Nadu Police Subordinate Services in G.O.No. 134 Home Department dated 31-1-97, in respect of selection of 66 candidates by relaxing their height is bad and illegal. In view of the limited issue raised, there is no need to refer all the factual details as stated in their respective affidavits. However, it is seen that both the petitioners joined the service of the Police Department as Grade-II Police Constable on 15-9-1978 and was promoted as Grade-I Police Constable on 6-12-94. The Secretary to Government, Home (Police Department), Chennai-9/1st respondent herein, by its G.O.Ms.No. 1054 dated 13-7-1995, announced reservation of 20 per cent posts in the quota of direct recruitment to the post of Sub Inspector of Police from the Head Constables/Police Constables in Grade-I and ordered recruitment on the same lines as applicable to direct recruitment with the exemptions viz., medical test and police verification. The academic qualification was that the HC/PC should be graduates with 5 years of service without any punishment. Besides this, the HC/PC must also conform with the physical fitness, physical measurements, etc., provided under the rules for direct recruitment besides taking up written test and interview. The candidates who are qualified should pass the physical verification test to be eligible for written test. The successful candidates in the written test should be called for interview.

3. It is brought to our notice that based on the recommendation of the Director General of Police in order to fulfil the aspirations of the personnel working as Grade I constables, who are otherwise having required qualification, the Government in G.O.Ms.No. 134-Home-Pol.III Department dated 31-01-1997 had relaxed Rule 14 of the Special Rules for Tamil Nadu Police Subordinate

Services with regard to height requirement from 170 centimetres to 168 centimetres for providing an opportunity of promotion to the 66 departmental candidates (Head Constables and Police Constables) because for selection of the Police Constables, the minimum height was 168 centimetres only. Mrs. Chita Sampath, learned counsel appearing for the petitioner in both cases, vehemently contended that the selection authority is not justified in relaxing the height requirement to certain percent namely from 170 c.m. to 168 c.m. and this aspect was not properly considered by the Tribunal; hence prayed for intervention by this Court.

4. On going through the materials placed by the department and the impugned order of the Tribunal, we are unable to accept the said contention. As a matter of fact, among other contentions, the above contention was very much projected before the Administrative Tribunal. In other words, the grievance of the petitioners is that the Government had relaxed the height requirement from 170 c.m. to 168 c.m. in case of 66 selected candidates and it was mala fide and arbitrary. In the counter affidavit, the Additional Director General Police and Member, Tamil Nadu Uniformed Services Recruitment Board, Chennai-2 has informed before the Tribunal as well as before this Court that this scheme of direct recruitment was introduced to provide an opportunity of promotion to the Police Constables who had necessary qualification, because, for selection of the Police Constables, the minimum height was 168 c.m. only. It was considered merely because of failure to fulfil the height requirement, otherwise the deserving departmental candidates should not be denied their chances. It is further seen that taking note of the material aspect that G.O.Ms.No. 1054 Home dated 13-7-95 prescribes 20 per cent of open market vacancies of Sub Inspectors of Police for the serving police personnel and the minimum height that was prescribed for qualification to be appointed as Police Constable is 168 c.m. only. The Government have taken a decision to relax the said condition, namely, height requirement from 170 c.m. to 168 c.m. to all the eligible departmental candidates. The said yardstick was applied uniformly to all the concerned candidates. The Tribunal, on analysing the same and after considering the fact that inasmuch as the said decision was applied uniformly to all the eligible candidates, arrived a conclusion that the said decision was neither arbitrary nor mala fide and rejected the claim of the petitioners. We also perused the relevant Government Orders and all other materials, namely, marks, measurement, etc., and we are satisfied that the said yardstick was applied uniformly to all the concerned candidates and taking note of the fact that for selection of Police Constables, the minimum height is 168 c.m., we concur with the conclusion arrived at by the Tribunal and hold that the decision was neither arbitrary nor mala fide as claimed by the petitioners.

5. It is also brought to our notice that the said specific relaxation applies to 66 individuals and the appointment orders were issued only after obtaining relaxation. Inasmuch as the Government have power to relax any condition, we hold that the said relaxation would not amount to amendment to the Rules. On the other hand, as rightly observed by the Tribunal, it is an exercise of power of relaxation. In such a circumstance, though Mrs. Chitra Sampath relied on several decisions, we are not inclined to refer the same, since they are not applicable to the facts of these cases. The only objection raised in regard to lowering the height requirement in respect of 66 candidates is liable to be rejected. We are also satisfied that as far as norms for selection of Police Constables is concerned, the minimum height requirement is 168 c.m. only and as such, the Government for providing an opportunity of promotion to the Police Constables, who had necessary qualification, have issued orders in G.O.Ms.No. 134 dated 31-01-1997, relaxing the height norms in favour of 66 candidates. As rightly contended by the learned Government Advocate, the petitioners cannot question the orders of the Government, which was passed within their powers and subsequently the Government have amended the relevant rules in this regard. Accordingly, we hold that the selection of 66 candidates by relaxing the height norm is neither bad nor illegal as claimed. It is also relevant to note that in the said Government Order, the Government have specifically ordered that all the prescribed norms and procedures for the direct recruitment would be followed except for age relaxation. In the counter affidavit the Additional Director General of Police and Member of Tamil Nadu Uniformed Services Recruitment Board, Chennai-2 has categorically stated that all rules relating to reservation had strictly been followed. It is also brought to our notice that the petitioners have secured lesser mark than the cut-off marks for Backward Class community candidates and on this ground also they cannot claim selection and dispute the selection of other candidates.

6. In the light of what is stated above, we do not find any merit in these writ petitions; consequently both the writ petitions fail and are accordingly dismissed. No costs.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To:-

1. The Secretary to Government,
Home (Police Department),
Fort St. George, Chennai-9.
 2. The Director General of police,
Chennai.
 3. The Director General of Police and
Chairman, Tamil Nadu Uniformed
Service Recruitment Board,
4, 9th Cross Street, Indira Nagar,
Chennai-20.
 4. The Tamil Nadu State Administrative
Tribunal, Chennai.
- + 2 ccs to Mrs. S.Chitra Sampath, Advocate SR 26650 & 26651
- + 1 cc to Government Pleader SR 26812

TEJ(CO)
SR/5.7.2005

Common Order in
W.P.Nos. 7560 & 7561/99



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