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The Director Vs. K.Chellaswamy

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Court : Chennai

Decided On : Mar-02-2012

Judge : Chitra Venkataraman; R.Karuppiah, Jj.

Appeal No. : Writ Appeal(MD)No.94 of 2012

Appellant : The Director.

Respondent : K.Chellaswamy.

Advocate for Def. : Mr.H.Velavadhas, Adv.

Advocate for Pet/Ap. : Mr.T.S.Mohamed Mohidheen, Adv

Judgement :

JUDGMENT

(Judgment of the Court was delivered by CHITRA VENKATARAMAN, J.)

1. The Director, Tamil Nadu Uniformed Services Recruitment Board, Chennai and the Director General of Police, Chennai, are on appeal, against the order of the learned single Judge dated 14.06.2011, wherein the writ petitioner / respondent herein, sought for a writ of certiorarified mandamus to call for the records of the notification of the first appellant herein in Advertisement No.210 dated 10.05.2010 and quash the same with regard to 5% of the vacancies mentioned in the said notification and direct the appellants herein to appoint the writ petitioner as Police

Constable Grade-II based on the written test conducted on 08.08.2010.

2.Referring to the similar request made in W.P.Nos.150, 151 and 359 of 2011 dated 11.04.2011, learned single Judge directed the first appellant herein to follow 5% reservation for Ex-Servicemen in Group-C posts and consider the claim of the respondent herein for selection and appointment to the post of Grade-II Police Constables under the Ex-Servicemen category, for the year 2010 and issue appointment order to him within a period of four weeks from the date of receipt of a copy of the order. Aggrieved over the same, the present writ appeal has been filed by the appellants.

3.It is seen from the Disqualification Slip dated 09.10.2010, that since the respondent herein was not qualified in the Physical Efficiency Test, particularly in Rope Climbing, he was not selected in the process. The case of the respondent is that he had applied for appointment to the post of Police Constable Grade-II at Kanyakumari District and attended the written examination on 08.08.2010. He had received mark details on an application made under the Right to Information Act. He obtained 52 marks, but his cut off mark as a basic mark, was not considered. It is further stated that non-selection of the respondent herein is contrary to G.O.Ms.No.18, Personnel and Administrative Reforms (S) Department, dated 22.01.2007, and that the selection process had failed to give importance to Ex-Servicemen.

4.Learned Additional Government Pleader appearing for the appellants herein pointed out that when the respondent herein had not qualified himself in the Physical Efficiency Test, the question of considering his name for appointment, does not arise. In this connection, learned Additional Government Pleader, placed before us the application of the respondent herein that he had given his status as 'Ex-Servicemen' under the category of 'General'. As far as the regulations provided for in the Notification are concerned, exemption from physical test in respect of Ex-Servicemen can only be in such of those cases where the Ex-Servicemen had been working as driver. In the present case, the exemption thus evidently not applicable to the respondent herein, he, having given his employment under the 'Armed Forces', as 'General', rightly the appellants subjected the respondent

herein to physical test. On a perusal of the advertisement, it is seen that paragraph(5) of Clause-VII clearly points out that in respect of Ex-Servicemen, as on 01.07.2010, the age limit was 45 years, and yet another criteria was that the application should be made within a period of three years from the date of discharge from service, to the date of Notification. Quite apart, Ex-Servicemen working as Driver, Auto-Mechanic, Auto- Electrician and Armourers, alone need to undergo the written test. As regards others, working in the sense of Ex-Servicemen, they may have to undergo the written test and Physical Efficiency Test.

5.On the basis of the statement made by the respondent in his application, in response to the Notification, and having not secured the qualifying marks in the Physical Efficiency Test, rightly the respondent's candidature was rejected. Going by the above said aspect, we have no hesitation in setting aside the order of the learned single Judge, thereby allowing this writ appeal.

6.The writ appeal is allowed. Consequently, M.P.(MD)No.1 of 2012 is closed. No costs.

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