

**Central Administrative Tribunal
Madras Bench**

OA/310/01341/2019 & OA/310/00230/2020

Dated the 12th day of March Two Thousand Twenty

P R E S E N T

**Hon'ble Mr. P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)**

OA 1341/2019

S.Gayathri
D/o S.Sarangapani,
No.24, Supreme nagar,
Karikalampakkam,
Puducherry 605 007. .. Applicant
By Advocate M/s.M.Gnanasekar

Vs.

1. Union of India, rep. by the
The Secretary to Government,
M/o Home Affairs,
New Delhi.
2. The Chief Secretary to Government,
O/o the Chief Secretariat,
Puducherry.
3. The Joint Secretary to Government,
Home Department,
Chief Secretariat,
Puducherry.
4. The Director General of Police,
Puducherry.
5. The Superintendent of Police,
(Headquarters),
Puducherry. ..Respondents

By Advocate Ms.S.Devie

OA 230/2020

1. S.Jayasri
2. A.Thirumavalavan ..Applicants

By Advocate **M/s.M.Gnanasekar**
Vs.

1. Union of India, rep. by the Secretary to Government, M/o Home Affairs, New Delhi.
2. The Chief Secretary to Government, O/o the Chief Secretariat, Puducherry.
3. The Joint Secretary to Government, Home Department, Chief Secretariat, Puducherry.
4. The Director General of Police, Puducherry.
5. The Superintendent of Police, (Headquarters), Puducherry. ..Respondents

By Advocate **Ms.S.Devie**

ORDER

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

The above OAs are filed seeking the following relief(s):-

OA 1341/2019:

“i. to set aside the order No.7/SP(HQ)/OW/2019-207 dated 23.8.2019 passed by the 5th respondent and consequently direct the respondents to consider the applicant for police recruitment by granting her age relaxation in addition to the general relaxation available to her as MBC candidate and consequently allow her to participate in the Police Recruitment pursuant to the Notification No.2841/A1/Estt.I(B)/POL/2018 dated 20.8.2018 issued by the 4th respondent;

ii. to pass such further orders as are necessary to meet the ends of justice and

iii. Award costs and thus render justice.”

OA 230/2020:

“i. To declare the action of the respondents in including the name of the applicants in the list of ineligible candidates published in the Police Constable Website on 11.02.2020 as illegal and consequently directing the respondents to permit the applicants participate in the Ground Test and Written Test for the recruitment to the post of Police Constable to be held in March 2020 or on subsequent dates and consider them in the Police recruitment and;

ii. to pass such further orders as are necessary to meet the ends of justice and

iii. Award costs and thus render justice.”

2. As the issue involved in these applications is identical and the relief sought for also is similar, these applications have been heard together and are being disposed off

by this common order.

3. The applicant in OA 1341/2019 belongs to Hindu Vanniar Community (MBC) and she is also Meritorious Sports Person (MSP).

4. The 1st applicant in OA 230/2020 belongs to Hindu Vanniar Community (MBC) and the 2nd applicant belongs to SC Community. They have certificate showing that they are Meritorious Sports Persons (MSP).

5. The respondents had issued a Notification dt. 20.8.18 for recruitment of Police Constables in Police Department, Puducherry. There are 390 vacancies notified and as per Notification, the vacancies reserved for UR is 199, MBC-70, OBC-42, SC-62, EBC-7, BCM-7 and BT/ST-3. There was no recruitment for the post since 2010 and the applicants were actively preparing for the selection till date.

6. The age limit fixed was between 18 to 22 as on 22.9.18. MBC/OBC/EBC/BCM/BT Categories will get 3 year age relaxation and SC and ST candidates will get 5 year age relaxation. Those who are applying under MSP Quota will get 5 year relaxation in upper age limit. This is in addition to age relaxation available under other categories.

7. When the Notification came for applying online, these applicants were slightly over-aged and they could not apply online and they had given applications manually. Some of the Home Guards who are over-aged filed OA Nos. 1474/2018, 1656/2018 and those OAs were disposed of by the Tribunal directing the respondents to consider giving age relaxation if necessary. The respondents gave 2 years age relaxation to all as per G.O.MS.No.49 dated 29.5.19 as a one time measure. According to the

applicants, the order of rejection of age relaxation by the 5th respondent is illegal. Only the Lt. Governor can grant age relaxation and hence the order passed by the 5th respondent is illegal. According to the counsel for the applicants, a person has a right to be considered for public employment and it is a fundamental right. The applicants could have been granted age relaxation as there had not taken place any recruitment from 2010 onwards.

8. The respondents filed reply denying the allegations made. According to them, as per directions issued by CAT in the case of OA filed by Home Guards, the Lt. Governor had relaxed the age fixed by 2 years and the respondents had considered the age upto 24 years. The maximum age for UR Category was taken as 24 years, MBC/OBC/BC/BT etc. as 3+2 years (27 years) SC/ST (5+2) 29 years and for MSP 5 years relaxation over and above relaxation. The date of birth of the applicant S.Gayathri in OA 1341/19 is 10.7.91 and she had crossed the maximum relaxation granted and according to them she cannot be considered as eligible. Further, they would submit that the applicant S.Gayathri is a migrant from Tamil Nadu and she can compete only in the UR Category. As regards the 1st applicant S.Jayasri in OA 230/2020 is concerned, she is also a migrant and is over-aged and cannot be considered for the post.

9. The counsel for the applicants pointed out that A.Thirumavalavan, the 2nd applicant in OA 230/2020 is an SC category person with origin in UT of Pondicherry and he is entitled to get 5 years relaxation in the category, 2 years relaxation given as per GO and another 5 years as he belongs to MSP Quota also. His date of birth is

17.3.89.

10. We have heard both sides. On a perusal of pleadings and annexures produced, it is seen that the applicants were over-aged as on 22.9.18 and they cannot come up in the eligible list. Since some of the similarly placed Home Guards approached the Tribunal, the Tribunal directed the respondents to consider age relaxation. The competent authority, Lt. Governor considered the representations of the applicants and gave an age relaxation of 2 years to all participants irrespective of the categories. The applicants in these cases evenafter the above age relaxation could not apply and they are seeking individual relaxation. But the counsel for the respondents would submit that the government has considered the difficulties and gave a relaxation of 2 years to all applicants. Age relaxation is ordinarily considered only when sufficient number of candidates are not forthcoming in a selection. Here there is no such circumstance and the applicants' case for individual age relaxation cannot be considered. The applicant S.Gayathri in OA 1341/19 had crossed 27 years and cannot be considered for selection. Similarly, the 1st applicant in OA 230/20 S.Jayasri had also crossed 29 years as on 22.9.18. Further, they are migrants coming from Tamil Nadu State and they can be considered only in the UR Quota. We find merit in the contention of the counsel for the respondents in this aspect.

11. We have gone through his certificates and found that he was born on 17.3.89 and was 29 years as on 22.9.18. He will get age relaxation for 12 years in the MSP Quota. The counsel for the respondents also admitted this fact. **So, we find merit in the case of the 2nd applicant in OA 230/2020. He should not have been shown in**

the ineligible list as SL No.241. But as regards other two applicants i.e. S.Gayathri in OA 1341/19 and S.Jayasri in OA 230/2020, they are not entitled to get any relief as prayed for.

12. In the result, the respondents are directed to remove the name of A.Thirumavalavan, the 2nd applicant in OA 230/2020 from the ineligible candidates list and permit him to participate in the Ground Test and Written Test for the recruitment to the post of Police Constable in the MSP Category going to be conducted pursuant to the Notification dt. 20.8.18.

13. OA 230/2020 is allowed to that extent. OA 1341/19 will stand dismissed. No costs.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

12.03.2020

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