

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA/310/01759/2017, OA/310/01711/2017 & OA/310/01781/2017,

Dated the 03 day of June Two Thousand Twenty

**CORAM : HON'BLE MR. P. MADHAVAN, Member (J)
HON'BLE MR. T. JACOB, Member (A)**

OA 1759/2017 :

1. Rijeesh Kuniyil,
2. Premji,
3. Sooraj,
4. Dhanesh. R.,
5. Rajath Ramesh,
6. Rajash.M.

....Applicants

By Advocate M/s. Prakash Adiapadam

Vs

1.Union of India rep by,
The Secretary to Lieutenant Governor of Puducherry,
Government of Puducherry,
Rajnivas, Puducherry.

2.The Chief Secretary to Govenrment,
Government of Puducherry,
Secretariat, Puducherry 605001.

3.The Secretary to Government (Home),
Government of Puducherry,
Secretariat, Puducherry 605001.

4.The Under Secretary to Government (Home),
Government of Puducherry,
Secretariat, Puducherry 605001.

5.The Director General of Police (DGP),
Office of the Director General of Police,

Puducherry Police Department,
Government of Puducherry, Puducherry.

6.The Inspector General of Police (IGP),
Office of the Director General of Police,
Puducherry Police Department,
Government of Puducherry, Puducherry.

7.The Senior Superintendent of Police (C & I),
Office of the Superintendent of Police (C & I),
Puducherry Police Department,
Government of Puducherry, Puducherry.

8.The Superintendent of Police (HQ),
Office of the Superintendent of Police (HQ),
Puducherry Police Department,
Government of Puducherry, Puducherry.

9.The Superintendent of Police (Home Guards),
Office of the Superintendent of Police (Home Guards),
Puducherry Police Department, Puducherry.

10.The Commandant (Home Guards),
Puducherry Police Department,
Puducherry.

11.V.Babu (HG 2283),
Police Constable,
Service of Notice through the Superintendent of Police (HQ),
Office of Superintendent of Police (HQ),
Puducherry Police Department,
Government of Puducherry, Puducherry.

12.I.Iyyappan, (HG 2282),
Police Constable,
Service of Notice through the Superintendent of Police (HQ),
Office of Superintendent of Police (HQ),
Puducherry Police Department,
Government of Puducherry, Puducherry.

13.M.Rajesh Kumar, (HG 2281),

Police Constable,
Service of Notice through the Superintendent of Police (HQ),
Office of Superintendent of Police (HQ),
Puducherry Police Department,
Government of Puducherry, Puducherry.

14.V.Elayaselvam, (HG 2276),
Police Constable,
Service of Notice through the Superintendent of Police (HQ),
Office of Superintendent of Police (HQ),
Puducherry Police Department,
Government of Puducherry, Puducherry.

15.N.Prathap (HG 2275),
Police Constable,
Service of Notice through the Superintendent of Police (HQ),
Office of Superintendent of Police (HQ),
Puducherry Police Department,
Government of Puducherry, Puducherry.

16.Perumal (HG 2274),
Police Constable,
Service of Notice through the Superintendent of Police (HQ),
Office of Superintendent of Police (HQ),
Puducherry Police Department,
Government of Puducherry, Puducherry.

17.N.Dhanasegaran, (HG 2273),
Police Constable,
Service of Notice through the Superintendent of Police (HQ),
Office of Superintendent of Police (HQ),
Puducherry Police Department,
Government of Puducherry, Puducherry.

18.D.Gopalakrishnan, (HG 2272),
Police Constable,
Service of Notice through the Superintendent of Police (HQ),
Office of Superintendent of Police (HQ),
Puducherry Police Department,
Government of Puducherry, Puducherry.

19.Densil Varghese (HG 2271),
Police Constable,
Service of Notice through the Superintendent of Police (HQ),
Office of Superintendent of Police (HQ),
Puducherry Police Department,
Government of Puducherry, Puducherry.

20.Vipin.P (HG 2270),
Police Constable,
Service of Notice through the Superintendent of Police (HQ),
Office of Superintendent of Police (HQ),
Puducherry Police Department,
Government of Puducherry, Puducherry.

21.Senthil R. (2269),
Police Constable,
Service of Notice through the Superintendent of Police (HQ),
Office of Superintendent of Police (HQ),
Puducherry Police Department,
Government of Puducherry, Puducherry.

....Respondents

By Advocate Mr. R. Syed Mustafa (R1-10)

OA 1711/2017 :

1. Yoganathan,
2. R.Murali,
3. G.Mahadevan,
4. E.Periyasamy,
5. R.Kabelan.

.....Applicants

By Advocate M/s. M. Gnanasekar

Vs

1.Union of India,
rep by Secretary to Department of Home,
Chief Secretariat, Puducherry.

2.Commandant General of Home Guards/
Director General of Police, Puducherry.

3.The Senior Superintendent of Police,
(Crime and Intelligence I), Puducherry.

4.The Superintendent of Police,
(Headquarters) Police Department,
Puducherry.

5.A.David, Home Guard No. 2260, Puducherry.

6.M.Pragaspathi, HG 2262, Puducherry.

7.S.Kamalappan, HG 2265, Karaikal.

8.S.Dhandaudhabani, HG 2266, Karaikal.

9.R.Senthil, HG 2269, Karaikal.

10.P.Vipin, HG 2270, Mahe.

11.Densil Varghese, HG 2271, Mahe.

12.D.Gopalakrishnan, HG 2272, Puducherry.

13.N.Danasegaran, HG 2273, Puducherry.

14.R.Perumal, HG 2274, Puducherry.

15.N.Prathap, HG 2274, Puducherry.

16.V.Elaya selvam, HG 2276, Karaikal.

17.M.Rajesh Kumar, HG 2281, Puducherry.

18.I.Iyyappan, HG 2282, Puducherry.

19.V.Babu, HG 2283, Puducherry.

....Respondents

By Advocate Mr. R. Syed Mustafa (R1-R4)

OA 1781/2017 :

1. K.Magesh,
2. P.Boopalan,
3. R.Mukilan.

....Applicants

By Advocate M/s. M. Gnanasekar

Vs

1.Union of India,
rep by Commandant General of Home Guards/
Director General of Police, Puducherry.

2.The Senior Superintendent of Police,
(Crime and Intelligence I), Puducherry.

3.The Superintendent of Police,
(Crime and Intelligence I), Puducherry.

4.The Superintendent of Police,
(Headquarters) Police Department,
Puducherry.

5.M.Rajesh Kumar, HG 2281, Puducherry.

6.I.Iyyappan, HG 2282, Puducherry.

7.V.Babu, HG 2283, Puducherry.

....Respondents

By Advocate Mr. R. Syed Mustafa

ORDER

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

The applicants had filed these OA's seeking following reliefs:

"OA 1759/2017 :

To call for the records relating to (i) impugned order vide No. 310/01637/OSD/DE-2/SP(HQ)/POL/2017 dated 03.11.2017 passed by the 8th respondent and also (ii) consequential impugned Memorandum dated 03.11.2017 issued by the 7th respondent in so far as absorption to the post of Police Constable from the post of Home Guard relating to the respondent Nos. 11 to 22 alone and quash the same and consequently direct the respondents to absorb Applicants to the post of Police Constables by taking into account of their length of service, seniority, age and other factors by granting permission to complete +2 (Higher Secondary) within four years time period in the light of (i) G.M.s No. 53 dated 22.09.2016 issued by the 3rd respondent namely the Home Department , Government of Puducherry, (ii) G.Ms. No. 11 dated 29.02.2016 issued the 4th respondent namely Under Secretary to Government (Home), Government of Puducherry & Letter vide No. 5383/Estt.I(B)/A1/Pol/WPC2014 dated 27.05.2016 issued by the 8th respondent namely the Superintendent of Police (HQ), Police Department, Government of Puducherry and post them at suitable place with all monetary and non monetary benefits with effect from the date on which when the Juniors to the Applicants and other similarly placed persons were absorbed to the post of Police Constables (PC) and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

OA 1711/2017:

- i. Set aside the order dated 03.11.2017 passed by the 3rd respondent in No. 6100/Est.1(B)/A1/Pol./HG/Absorption/2017 and to set aside the order dated 03.11.2017 passed by the 4th respondent in No. 310/01635/OSD/DE-2 SP (HQ)/POL/2017 and consequently direct the respondents to absorb the applicants on the basis of their seniority with permission to complete +2 course within four years period and with all consequential and monetary and service benefits and
- ii. Pass such further orders as are necessary to meet the ends of justice.
- iii. Award exemplary cost and thus render justice.

OA 1781/2017 :

- i. Set aside the order dated 03.11.2017 passed by the 3rd respondent in No. 6100/Est.1(B)/A1/Pol./HG/Absorption/2017 direct the respondents to include the name of the applicants in the list of Home Guards eligible for absorption against 25% absorption category and consequently direct the respondents to absorb them on the basis of their seniority with permission to complete +2 course within four years period

and with all consequential and monetary and service benefits and

- ii. Pass such further orders as are necessary to meet the ends of justice.
- iii. Award exemplary cost and thus render justice."

2. Since all the applicants in these cases are homeguards and the relief claimed also are similar, these OA's are considered together. OA1711/17 is taken as the leading case.

3. The applicants are Home-guards working in U.T of Puducherry. As per the Recruitment rules, 25% of the vacancies of police constables are filled by absorption from Home-guards. Respondents No3 has proposed to fill up 130 posts of police-constables by absorption.

4. The prescribed qualification for the post of police-constables as per RR is "plus two". The applicants have only SSLC qualification and they are not being considered for selection to the post of police-constables. They have the prescribed seniority and fitness and experience. But they are not considered because, they have no "Plus-two" qualification. So, they gave a representation for relaxation of age. But, the respondents had rejected the representation by impugned order dt. 3-11-2017. Hence they filed these OA's. According to the applicants, they ought to have given a chance to applicants by giving relaxation in qualification. The respondents had given relaxation earlier to others and rejecting their request is arbitrary, discriminatory and illegal.

5. The respondents 1 to 3 filed reply stating that proposal for absorption of home-

guards was taken up in the year 2017 and they had selected 129 home-guards who fulfilled the conditions in the RR.

6. The applicants could not be considered for selection as they are not having the prescribed "Plus-two" qualification. The private respondents although junior to the applicants, they got selected as they had the prescribed qualification. As per the VI th CPC recommendation, all group C posts has to be filled with candidates having Plus-two certificates as it is necessary for absorption as police-constables. But, the applicants failed to get qualified in plus two. So there is no merit in the claim put forward by the applicants. There is no illegality or arbitrariness in the selection done in this case. So, the OA is liable to be dismissed.

7. The counsel for the applicant would submit that the respondents had earlier given relaxation to some home-guards with conditions by the Lt.Governor. They had also given relaxation for women home-guards in the selection of women police-constables and hence the applicants ought to have been given relaxation.

8. It was also submitted that applicants No.2,3,4 and 5 in OA 1711/17 were absorbed as police-constables since they acquired qualification and they are not pressing their case. As regards applicants 2,3,4, and 6 in OA 1759/17 is concerned, the respondents had absorbed them as police-constables subsequently. But they were not given appointment from the date their juniors were appointed. So, the counsel for the applicants would submit that the respondents ought to have been given relaxation to applicants as prayed for.

9. The counsel for the respondents would submit that generally relaxation is given when there is no sufficient number of candidates available. The applicant has no vested right to claim that they are entitled to get age relaxation as such. Some of the applicants in these OA's were already absorbed by the respondents and it clearly shows the fairness of procedure adopted by the respondents. The applicants who aspire to get appointed as police-constables should have acquired the "Plus two" qualification which is necessary as per RR. It may be true that juniors who acquired qualification earlier might have been appointed earlier. Those who acquired qualification later cannot get retrospective appointment since his junior was earlier got appointed. The post of home-guards is not a civil-post under the govt.

10. We have heard both sides and perused the pleadings and annexures produced. On a persusal of RR for the post of police-constables, the qualification prescribed is "Plus-Two". The applicants before this tribunal have not passed the prescribed qualification and it is only because of that applicants were not considered. Even after the filing of this OA, some of the applicants who acquired qualification were absorbed. The question of relaxation of age is a matter of policy and since there are sufficient number of candidates available in the category of home-guards, the respondents need not relax the conditions or qualification. There is no reason to deviate from this principle. We could not find any reason to direct the respondents to relax the qualification to the applicants especially when other qualified candidates are available. There is also no merit in the argument that applicants 2,3,4,and 6 are

entitled to get retrospective appointment along with their juniors who had got appointed as they possessed the required qualification earlier.

11. We could not find any arbitrariness or illegality or discrimination to interfere in the impugned order passed.

12. So, there is no merit in these OA's

13. Hence, **OA Nos. 1711/17, 1759/17, 1781/17 will stand dismissed. No costs.**

(T.Jacob)
Member(A)

(P. Madhavan)
Member(J)

03.06.2020

MT