

**Central Administrative Tribunal
Madras Bench**

OA/310/01050/2015

Dated the 28th day of June Two Thousand Nineteen

P R E S E N T

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

A.Madurai
S/o M.Arumugam.
No.8, V.O.C.Street,
Veerampattinam,
Ariyankuppam,
Puducherry. .. Applicant
By Advocate **M/s.M.Gnanasekar**

Vs.

1. Union of India, rep by
The Government of Puducherry,
Through the Inspector General of Police,
Police Department,
Puducherry.
2. The Superintendent of Police(HQ),
Police Department,
Puducherry. .. Respondents
By Advocate **Mr.R.Syed Mustafa**

ORDER

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

This is an OA filed seeking the following relief:-

“to call for the records in connection with the order passed by the 2nd respondents in No.9/A2/Estt.I(A)/Pol/2014 dated 26.12.2014 and consequently

direct the respondents 1 to issue appointment order for the post of Sub-Inspector of Police under the sanctioned 2 post of EBC quota and pass other orders has been fit and necessary to meet the interest of the justice

Pass such further orders as are necessary to meet the ends of justice.

Award exemplary cost and thus render justice.”

2. The applicant in this case had applied for the post of Sub-Inspector of Police as per notification dated 18.11.2010 and as per the said notification he had applied for the post. According to him, he belongs to EBC category and the respondents had not reserved any post for EBC which was against the government order issued in this matter. After issuing the notification, the respondents had issued a corrigendum on 25.11.2010 adding some more categories except EBC. Subsequently recruitment process was concluded and select list was published. Aggrieved by the notification and selection list, the applicant had filed OA 507/2011. The respondents entered appearance in that OA and the matter was adjudicated and an order was passed on 03.7.14 directing the respondents to re-examine the case of the applicant for selection in 2% EBC quota and take a decision in the matter. It was also directed that if he is

found eligible to be selected and appointed as Sub-Inspector of Police, he could be accommodated against an existing or future vacancy. If the finding is that he was not eligible to be appointed, the decision should be communicated to the applicant in the form of a speaking order within 3 months. The respondents in this case on 26.12.14 had issued Annexure A8 order denying the appointment. So, the applicant has filed this OA. According to the applicant, the applicant ought to have been appointed under EBC category as only one Kumar alone has challenged the notification. According to the applicant, he is entitled to get appointment in the 2% EBC quota.

3. The respondents entered appearance and filed a detailed reply statement. According to them, as per Recruitment Rules the post of Sub-Inspector comes under same Group 'C' and the department has to fill 50% of the vacancies by Direct Recruitment and 50% by promotion. The Direct Recruitment has to be done through a written test. A written test was conducted accordingly. Out of the total 41 posts, 12 vacancies were given to General category, 6 to OBC, 10 to MBC, 10 to SC 2 to MCM and 1 to BT. The physical efficiency test was conducted between 28.1.11 to 03.2.11 and 05.2.11 for 2865 eligible candidates and 842 candidates were provisionally selected for written examination. The written examination was conducted on 06.2.11 and 40 candidates were selected from the written examination by provisional select list dated 07.2.2011. One post was kept vacant due to a interim order in OA 1557/2011 belonging to SC reservation. In the meanwhile, the applicant has filed OA 507/11 before this Tribunal for quashing the notification and selection. In compliance with the order of the Tribunal dated 03.7.14, the case of the applicant

was re-examined for selection against 2% EBC quota from among the 5 EBC candidates. 4 candidates have secured more marks than the applicant. The marks obtained by the applicant are also given in the reply. As per the list the applicant, A.Madurai had obtained only 108 marks whereas one Coumar.M has secured 119 marks and he was appointed. Since the applicant has not succeeded to come up in the list, it was found that he is not eligible to be appointed as Sub-Inspector of Police. The one person appointed, Coumar.M. approached this Tribunal by filing OA 383/2011 challenging the provisional select list mainly on the ground of violation of EBC quota. The OA was dismissed and the applicant Coumar.M filed WP No. before the Hon'ble High Court as WP No.35423/2012 and the Hon'ble High Court dismissed the above petition on 04.10.2013. But the applicant Coumar.M. has filed RA 192/2013 in the above said WP and the Hon'ble High Court has directed the respondents as follows:-

“the respondents have chosen to follow the other two Gos. in respect of reservation in Most Backward Muslims and Backward Tribes. Therefore, in all fairness, the respondents 1 to 4 ought to have followed GO Ms.No.9 also in respect of MBC candidates. Failure to follow the said GO.No.9 and notify the 2% reservation for EBC category has, certainly, resulted in denial of a fair opportunity of appointment to the petitioner.

Therefore, considering all these aspect we find that the petitioner is entitled to succeed in this review. Accordingly, this petition is allowed. Consequently, the respondents 1 to 4 are directed to appoint this petitioner in the post of Sub Inspector of Police under EBC category without disturbing the appointment of respondents 5 and 6 and pass such an order”.

Accordingly, out of the 5 candidates, Coumar.M who had secured highest mark was appointed as Sub-Inspector of Police under EBC quota on 06.6.16. So, according to the respondents. 2nd respondent is not at all eligible to be appointed to the post of Sub-Inspector of Police under EBC category.

4. We have heard the counsel for the applicant and the counsel for the respondents and had anxiously perused the pleadings before the court. If we go through the notification dated 18.11.2010, there was no EBC quota provided. It is on the basis of the direction of this Tribunal in OA 507/11 and order passed in the WP filed by Coumar.M, the respondents had re-considered the application of 5 EBC candidates. There was a specific direction by the Hon'ble High Court in respect of the appointment of Coumar.M and accordingly the applications of the applicant as well as Coumar.M and 4 others were reviewed and the respondents had given the details of marks secured by all the 4 EBC candidates in the reply statement. As per the said statement, the applicant Madurai is the last person and he had secured only 108 marks and he is below 4 others. Coumar.M secured the highest mark i.e. 119 and accordingly the said Coumar.M was given appointment. From the above, it can be seen that the applicant's case was considered by the respondents and they have rejected the application on merits as he has not secured marks required for appointment. The applicant has not come up in the select list and is lower than 4 other persons above him in the EBC quota. So, he is not entitled to get any benefit. Accordingly, the respondents had rejected the appointment of the applicant in this case. We do not find any merit in the contention put forward by the applicant in this

case. So we do not find any illegality in the impugned order passed by the respondents at Annexure A8.

5. In the result, the OA is devoid of merits and is liable to be dismissed. Accordingly, OA is dismissed. No costs.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

28.06.2019

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