

**Central Administrative Tribunal
Madras Bench**

OA/310/01308/2012

Dated 10th January Two Thousand Nineteen

P R E S E N T

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

Vasanthan @ Manikandan.T,
S/o Thanikachalam,
No.44, School Street, Kirumampakkam,
Puducherry. .. Applicant
By Advocate **M/s.V.Ajayakumar**

Vs.

1. Union of India, rep by the
Government of Puducherry through the
Secretary to Govt., for Fire Service Department,
Chief Secretariat, Puducherry.
 2. The Divisional Fire Officer,
Fire Service Department, Puducherry.
 3. Sivasankaran.D.
 4. Djeandasudand .. Respondents
- By Adovacte **Mr.R.Syed Mustafa(R1&2)**

ORDER

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

This is an OA filed seeking the following relief:-

“To call for the records of the first respondent with No.1953/Hone/PPT.III/2007/Vol.II dated 29.10.2012 and to quash the same in respect of the selection and appointment of the 3 and 4 respondents and consequently to direct the respondents 1 and 2 to appoint the applicant to the post of Fireman Driver Gr.III with effect from the date on which the other selected candidates are appointed with all other consequential benefit including Wages, Seniority etc. and to pass such other or further orders in the interest of justice and thus render justice.”

2. The applicant's case in brief is as follows:-

The 2nd respondent, the Divisional Fire Officer, Pondicherry, has issued a notification for recruitment to the post of Fireman Driver Gr.III in the year 2007 calling for eligible candidates to the said post. The total vacancies notified was 12 and out of this, 6 posts for Unreserved(UR), 2 posts for MBC, 2 for OBC and 2 for SC candidates. The applicant in this case had applied for the above post and he is a candidate under MBC quota. According to him, in the year 2011 the respondents had issued a corrigendum as per Annexure A2 showing the total vacancies under UR as 7, MBC-4 and SC-1. According to the applicant, the respondents have published a select list on 29.11.2012 containing names of 7 General Category candidates under MBC category. The name of the applicant was not included in the select list. According to the applicant, the 3rd respondent got 40 marks and he belonged to MBC category and according to him eventhough the 4th respondent had got only 37 marks,

he was given the appointment. According to the applicant, he had obtained 40 marks and he ought to have been appointed at the place of 4th respondent and hence this case.

3. The respondents appeared and filed a detailed reply stating the circumstances in which the corrigendum was issued as Annexure A2. According to the respondents, the reservation policy was extended to 2% reservation to Economically Backward Class and Backward Class Muslims in Group-C posts in the Puducherry Government Service and orders were issued for Revised Post Based Roster for making Direct Recruitment on 28.1.2011 which is produced as Annexure R3. Due to the revision in the policy, the Fire Service Department has also revised the said roster accordingly. As per the present Post Based Roster, 7 posts has to go to General Category, 4 to MBC and 1 to SC category. Accordingly, corrigendum was issued as Annexure A2. The number of vacancy were approved by the competent authority and corrigendum was issued and it was also notified in News Paper. A provisional select list was published after completing the selection process on 29.10.2012. But there was some objection and again the committee has scrutinized the results and marks and thereafter a fresh select list was published on 28.12.2012. The applicant herein has got 40 marks in the selection process. The highest marks secured by the selected candidate is 45 and the lowest marks secured by the selected MBC candidate is 41 marks. The applicant, therefore, could not qualify and come in the select list. The applicant has given a representation on 31.10.2012 and he was informed of the lowest mark obtained by the candidates and he is not eligible to be considered under the

MBC category. He was also informed that Horizontal reservation for Ex-Servicemen and Meritorious Sports Persons has to be given 10% as per notification dated 01.11.2007 in the category of Group "C". This provides 1 vacancy for Ex-Serviceman and accordingly the 4th respondent was given the said appointment. As per the select list, only 12 candidates were selected and it was given to 7 UR candidates and 4 MBC candidates. The last selected MBC candidate had secured 41 marks in this case. The 4th respondent Ex-Serviceman was accommodated in the OBC quota.

4. We have heard both sides and gone through the pleadings. The only point which arise for consideration is whether the applicant has made out a case for getting appointment in the place of the 4th respondent who was appointed under the category of Ex-Serviceman. On going through the pleadings of the applicant, it can be seen that the applicant has claimed the above post on the ground that no reservation was provided in the notification for Ex-Servicemen and hence he is entitled to get the said post which was given to 4th respondent. But counsel for the respondents had pointed out that the appointment of the 4th respondent was made in the Ex-servicemen quota. The 4th respondent is given appointment under the special category of Ex-Serviceman and this entitlement of Ex-Serviceman to 10% of the vacancies is clearly mentioned in the notification itself. On a perusal of Annexure A1 notification, it can be seen that the respondents had clearly mentioned the same in Annexure A1 notification that Horizontal reservation for Ex-Serviceman and meritorious persons will be considered as per government notification. It is clear that all the MBC candidates were

appointed and the minimum cut-off mark was 41 which was obtained by the last MBC candidate. The applicant has not succeeded in obtaining the said mark and is not entitled to get any appointment as claimed by him. Hence there is no merit in the contention raised by the applicant in this case. The respondents had conducted the selection in a proper manner and they had filled up the vacancies as per the reservation norms prevailing at the time of appointment.

5. So, we find no merit in the argument put forward by the applicant and the OA is liable to be dismissed and it is dismissed. No costs.

(T.Jacob)
Member(A)

10.01.2019

(P.Madhavan)
Member(J)

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