

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 10891/2018

THE STATE OF TAMIL NADU & ORS. . . APPELLANT(S)

VERSUS

K. SATHISH . . . RESPONDENT(S)

WITH

CIVIL APPEAL No. 10893/2018

CIVIL APPEAL NO. 12226/2018

CIVIL APPEAL NO. 5844/2019

CIVIL APPEAL No. 5843/2019

CIVIL APPEAL No. 10892/2018

CIVIL APPEAL NO. 419/2023
(@ SLP(C) No. 33510/2018)

O R D E R

Leave granted in SLP (Civil) No.
33510/2018.

Application for impleadment in C.A. No.
10892/2018 is allowed.

GO No. 834 was issued by the Tamil Nadu State Government on 10.09.2001 granting the benefit of a 10% Special quota for wards of serving/retired/deceased police personnel in recruitment to the post of Constables.

It appears that the aforesaid Rule was assailed before the High Court and struck down which matter came up before this Court in the case of *Secretary to the Government and Anr. vs. M. Senthil Kumar*¹. The judgment of the High Court was set aside on the premise that there was no challenge laid to the constitutional validity of the policy and thus it was not open to the High Court to go into the aspect of unconstitutionality of the said Rule.

In the present case(s), we are concerned with WP (MD) No. 16909/2017 filed before the Madurai Bench of the Madras High Court by one K. Sathish aggrieved by his own non consideration under this special reservation on various grounds. The writ petition was decided by the learned Single Judge on merits as per order dated 07.09.2017 and the petition dismissed on the ground of delay and laches.

On the appeal being preferred from the said judgment before the Division Bench, as per the impugned judgment dated 13.02.2018. The appeal had been allowed predicated on a reasoning that such reservation was inherently in violation of the provisions of Article 16 of the Constitution of India. The aforesaid judgment referred to by us

was noticed but it was observed that no opinion had been expressed by this court one way or the other. On the constitutionality aspect, the Court observed that the Government was specifically put to notice but no affidavit in opposition was filed by the State Government. The Division Bench while protecting the recruitment already made, quashed the G.O.

We are faced with appeal filed by the State Government of Tamil Nadu, the original petitioner as well as persons who had gone through process of recruitment but had not been formally recruited on the anvil of the judgment.

We have heard learned counsel present for the parties and are of the view that the impugned judgment suffers from the same infirmity as set out in *Secretary to the Government and Anr. vs. M. Senthil Kumar*(supra). In fact the original petitioner was a person seeking benefit under the G.O., and thus there was no challenge laid to the G.O. He was found ineligible under the G.O. as well as if the reservation had not been applied. That should have been the end of the matter. A Bench of its own decided to press the constitutional validity without any challenge and pleadings being laid in that behalf, something we cannot commend.

We are informed that in an earlier round of

litigation on the issue whether the persons who had gone through the process but their recruitments were yet to be notified, on their fate, the matter was remitted by this Court but in the review petition(s) also that aspect was not considered while dismissing the same while order dated 30.01.2019. We are thus really not called upon to go into the constitutionality of the said G.O. for the reason that it was not assailed and is not assailed and thus the Division Bench's approach in getting into the issue in the absence of the pleadings, is not something which can be sustained, specially in view of this very Rule having been considered on this very ground in the earlier judgment in *Government and Anr. vs. M. Senthil Kumar* (supra).

We thus have no hesitation in setting aside the impugned judgment of the Division Bench dated 13.02.2018 and review order dated 30.01.2019 while not tinkering with the judgment of the learned Single Judge for the reasons that even on merits the candidate who had approached the Court for the benefit under the quota was found ineligible.

We are *inter alia* guided by the principle laid down in the case of *Naresh Shridhar Mirajkar & Ors. vs. State of Maharashtra & Anr.*² Placitum E

to G of the said judgment reads as under :

"We have referred to these respective arguments just to indicate the extent of the field which has been covered by learned counsel who assisted us in dealing with the present petitions. As this Court has frequently emphasised, in dealing with constitutional matters, it is necessary that the decision of the Court should be confined to the narrow points which a particular proceedings raises before it. Often enough, in dealing with the very narrow point raised by a writ petition, wider arguments are urged before the Court; but the Court should always be careful not to cover ground which is strictly not relevant for the purpose of deciding the petition before it, Obiter observations and discussion of problems not directly involved in any proceedings should be avoided by courts in dealing with all matters brought before them; but this requirement becomes almost compulsive when the Court is dealing with constitutional matters. That is why we do not propose to deal with the larger issues raised by the learned counsel in the present proceedings, and we wish to confine our decision to the narrow points which these petitions raise."

The appeals are allowed to the aforesaid extent, leaving the parties to bear their own costs.

Needless to say that the aspect of constitutional validity of the Rule is left open by us.

The pendency of the litigation will not make

the claim of candidates who have gone through the process when the judgment was delivered, age bar and necessary relaxation be provided by the State Government.

.....J.
[SANJAY KISHAN KAUL]

.....J.
[ABHAY S. OKA]

.....J.
[B.V. NAGARATHNA]

NEW DELHI,
JANUARY 19, 2023.

ITEM NO.108

COURT NO.2

SECTION XII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 10891/2018

THE STATE OF TAMIL NADU & ORS.

Appellant(s)

VERSUS

K.SATHISH

Respondent(s)

([REMAIN ON BOARD]

IA No. 88524/2018 - EXEMPTION FROM FILING O.T.)

WITH

C.A. No. 10893/2018 (XII)

C.A. No. 12226/2018 (XII)

IA No. 170995/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT, IA No. 170998/2018 - EXEMPTION FROM FILING O.T.)

C.A. No. 5844/2019 (XII)

C.A. No. 5843/2019 (XII)

C.A. No. 10892/2018 (XII)

(IA No. 122921/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT, IA NO.....IMPLEADMENT)

SLP(C) No. 33510/2018 (XII)

(IA No. 170784/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT)

Date : 19-01-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

HON'BLE MR. JUSTICE ABHAY S. OKA

HON'BLE MRS. JUSTICE B.V. NAGARATHNA

For Appellant(s)

Mr. R. Balasubramanian, Sr. Adv.

Mr. P. Soma Sundaram, AOR

Mr. Mayilsamy K, Adv.

Mr. K Muthuganesa Pandian, Adv.

Dr. Gayathiri A S, Adv.

Mr. G. Anandaselvam, Adv.

Dr. Ramsankar, Adv.

For Appellant(s)/

For Respondent(s)

Mr. M.P. Parthiban, AOR

Mr. M. Yogesh Kanna, AOR

[For Respondent(s) Mr. Sanjay R. Hegde, Sr. Adv.
Dr. Joseph Aristotle S., AOR
Mr. Shobhit Dwivedi, Adv.
Mr. Raghav Gupta, Adv.
Mr. Sharukh Ali, Adv.
Mr. Tanay Hegde, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted in SLP (Civil) No. 33510/2018.

Application for impleadment in C.A. No. 10892/2018 is allowed.

The appeals are allowed to the aforesaid extent, leaving the parties to bear their own costs.

Needless to say that the aspect of constitutional validity of the Rule is left open by us.

The pendency of the litigation will not make the claim of candidates who have gone through the process when the judgment was delivered, age bar and necessary relaxation be provided by the State Government.

Pending applications stand disposed of.

[CHARANJEET KAUR]
ASTT. REGISTRAR-cum-PS

[POONAM VAID]
COURT MASTER (NSH)

[Signed order is placed on the file]