

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2017

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WRIT PETITION No. 21337 of 2017

K.K.Manikandan

... Petitioner

Vs.

1. The Chairman,
Sub Committee,
Tamil Nadu Uniformed Services Recruitment Board,
Pantheon Road, Egmore, Chennai - 600 008.

2. The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Pantheon Road, Egmore, Chennai - 600 008.

...

Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the order passed by the 1st respondent, in the name of disqualification slip vide his proceedings in C.No.R2/150/2017 dated 27.07.2017 and quash the same and for consequential direction to the respondents to conduct physical re-measurement test for getting the petitioner's chest measured and further direct them to allow the petitioner to take part in the further process of selection to the post of Grade-II Police Constable vide Common Recruitment for the posts of Grade-II Police Constables, Grade-II Jail Warders and Firemen, 2017 pursuant to the Notification No.117.

For Petitioner : Mr.P.Rajkumar Pandian

For Respondents: Mr.K.Venkataramani
1 & 2 Additional Advocate General -VII
Asst by Mr.K.Dhananjayan
Special Government Pleader

O R D E R

The order of non-selection issued by the first respondent in proceedings dated 27.07.2017 is under challenge in this writ petition.

2. The writ petitioner, pursuant to the Notification No.117 issued by the State for Recruitment to the post of Grade-II Police Constables Grade-II Jail Warders and Firemen in the Tamil Nadu Police Service, had submitted his application and participated in the written examination and having succeeded in the written examination, he had received a call letter to participate in the Physical Measurement Test/ Endurance Test/ Physical Efficiency Test. The writ petitioner had also participated in the Physical Measurement Test held on 27.07.2017 at Rajaratnam Stradium, Egmore, Chennai.

3. The authorities, who measured his chest came to the conclusion that he is not having the minimum chest requirement of 81 cms in normal condition and 86 cms after expansion. Accordingly, the impugned disqualification slip was issued to the writ petitioner.

4. The learned counsel appearing for the writ petitioner contended that he preferred an appeal to the Chairman, Sub Committee but he was not subjected to second measurement as contemplated in the instructions/brochure. Thus, another opportunity is to be provided for the writ petitioner to undergo the Physical Measurement Test.

5. The learned Additional Advocate General appearing on behalf of the respondent, while responding to the contention of the learned counsel for the writ petitioner, stated that even in para 5 of the affidavit filed in support of the writ petition, it is stated by the writ petitioner that he had appealed with the Measuring Officer. But the appeal is to be preferred before the Chairman Sub Committee and not with the Measuring Officer vide the announcement made during the Physical Measurement Test in the Stadium itself and this apart, the provision of appeal is very well stated in the brochure /instructions supplied to the candidates. Thus, the appeal said to have been preferred before the Measuring Officer cannot be accepted and given the appeal was not properly made in accordance with instructions issued to the writ petitioner. Thus, the measurement taken at the first level becomes final and the writ petitioner becomes disqualified for selection.

6. Even in the counter affidavit filed by the respondent no.2, it is stated that the procedures of Chest Measurement Test was detailed in para No. XIII (2) of the Notification No.117 dated 23.01.2017.

PHYSICAL MEASUREMENT TEST :-

Physical Measurement Test comprises of Chest Measurement for Men. The minimum eligibility as mandated by Rule 14 of TNPSS as follows:-

(i) Normal	Minimum 81 cms
(ii) Expansion	Minimum 5 cms

7. It is clarified by the respondent in their counter that the writ petitioner had not preferred any appeal for re-measurement, in spite of the fact that there is a provision for the appeal to the Sub-Committee, Chairman, regarding the remeasurement of chest. All the said instructions are categorically stated in Column II of the Hall Ticket issued to the candidates who are appearing for the physical measurement test / endurance test / physical efficiency test. Thus, there is no infirmity in the order of rejection.

8. This apart the norms for the physical measurement of chest are clearly explained in the Notification No.117 in Para XIII (1) & (2) for male candidates and (3) for female/third gender candidates and the same has been specified in the Brochure in Para No.27 (i) for male and (ii) for female and third gender candidates.

Event	For Male	For Female/Third Gender
Chest	The Chest measurement should be minimum of 81 cm in normal state and 5cm expansion in a state of deep inspiration.	Not applicable to women.

9. The writ petitioner is not able to fulfil the specific instructions given in the notification as well as in the brochure issued in this regard. Thus, the petitioner was disqualified, as he did not have the minimum eligibility chest requirement of 81 cms in normal condition and 86 cms after expansion. The physical measurement test of is one of the chest eligibility criteria to participate in the selection process for the said recruitment under Category 8 of Rule 14 (1) (a) and (b) of Annexure II of the Tamil Nadu Police Subordinate Service Rules.

10. This apart, the writ petitioner on completion of his physical measurement test at the first level has not raised objection and he accepted the disqualification in chest measurement and also acknowledged the disqualification slip and he had not preferred any appeal thereafter, as contemplated under the instructions. Thus, there is no possibility of conducting another measurement in respect of the writ petitioner and accordingly, the writ petition is devoid of merits.

11. The learned counsel appearing for the petitioner contended that no fair procedure has been adopted by the Selection Agency in the physical measurement test and it is not

conducted in accordance with the established procedures to conduct the same.

12. The learned Additional Advocate General contended that the writ petitioner has not preferred an appeal to the Chairman Sub Committee and therefore, no re-measurement was conducted in respect of the writ petitioner. Thus, based on the measurement conducted at first level the writ petitioner was disqualified and a disqualification slip was issued to the writ petitioner and the same was accepted with acknowledgment. Thus, there is no reason to reconsider the case of the writ petitioner. In fact, the petitioner's height has been manually measured with the measuring stand by the Sub-Committee member and his height was found to be 174.5 cms. He was qualified in the height measurement and allowed for chest measurement and found in normal state as 78 cms. He was hence rightly disqualified as he did not have the minimum eligibility chest requirement of 81 cms and issued with disqualification slip under proper acknowledgement and the same was accepted by the petitioner. Thus, there is no reason to reconsider the case of the writ petitioner.

13. The learned Additional Advocate General urged this Court that the Hon'ble Supreme Court of India also considered these issues and the details of judgment are extracted hereunder:-

"20. It is submitted that, it has been observed by the Hon'ble Apex Court in State of Jammu and Kashmir & Anr. Vs. Ajay Dogra in SLP Civil Appeal No.3066/2011 arising out of SLP (c) No.23956 of 2002 dated 07.04.2011 has allowed the Writ Appeal filed by the State of Jammu & Kashmir & Anr and has held that

19. We may also appropriately refer to the decision of this Court in Sanjay Kumar Vs. Narinder Verma and Ors. Reported in (2006) 6 SCC 467, wherein also it was contended before this Court that in absence of any challenge to the relevant Rules, it was impermissible for the High Court to depart from such recruitment rules. It was also submitted that it is not open to the High Court to ignore the recruitment rules and to introduce a criterion which is not even contemplated by the applicable rules.

20. This Court, while upholding the aforesaid contentions held in paragraph 16 thus:- It was wholly unjustified on the part of the Division Bench to have interfered with the selection process on the basis of the criteria which were not laid down in the Rules and that too on an erroneous appreciation of the Rules.

21. This qualification to be possessed by the

applicants have been prescribed in the Rules and also in the advertisement for the reason that some of them are required to be posted at high altitude and therefore they are required to have proper physique so as to be able to be posted to those places.

23. We, therefore, hold that the High Court was not justified to decide the validity of the aforesaid Rule and the advertisement without there being any challenge to the same. We also hold that it was not appropriate for the High Court to set aside the said conditions which are mandatory in nature."

14. The Tamilnadu Uniformed Services Recruitment Board (TNUSRB) is conducting Physical Measurement Test (Height & Chest) based on rules which have been clearly stipulated in the Notification and Brochure. They have conducted Physical Measurement Test for around 68,444 candidates and wherever the appeal was properly filed, a remeasurement was conducted by the Chairman/ Sub Committee in the rank Deputy Inspector General of Police. Thus, there is no reason to interfere in the case of the writ petitioner.

15. Except general grounds, the writ petitioner has not made out a specific allegation of any malpractice or other illegal activities in the selection process. In the absence of any such specific allegation, this Court is not in a position to consider the general grounds raised by the writ petitioner with regard to the remeasurement to be done in favour of the writ petitioner.

16. In view of the aforesaid reason, the writ petition is devoid of merits and stands dismissed. However there is no order as to costs.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

To

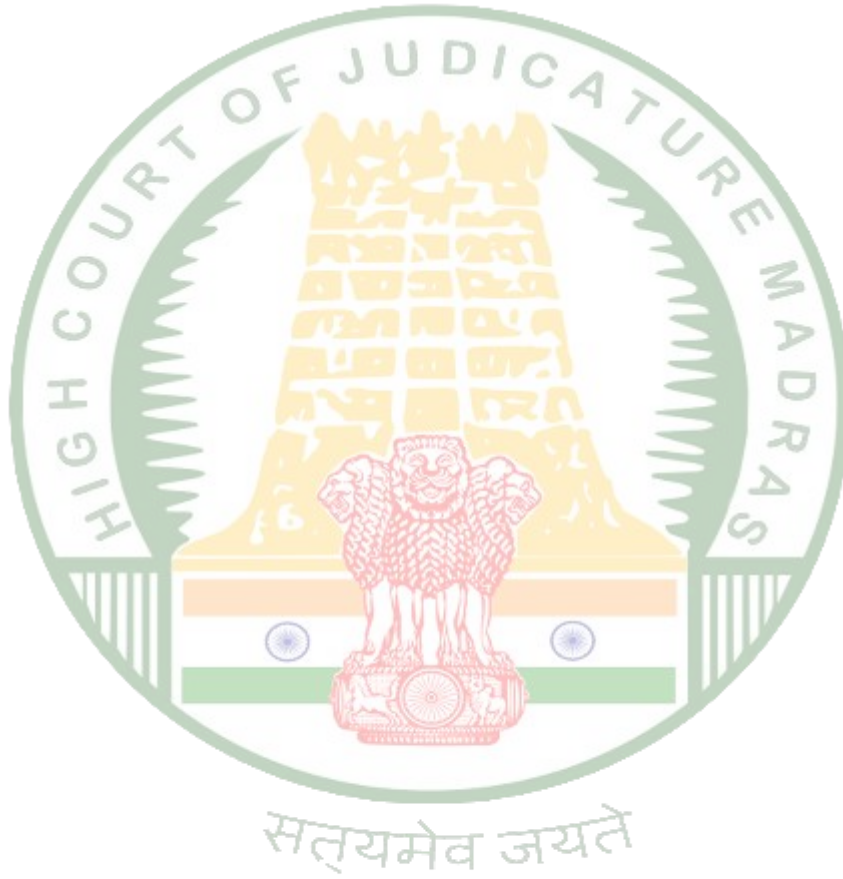
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+ 1 cc to Mr.P.Rajkumar Pandian, Advocate, SR.59072
+ 1 cc to The Govt.Pleader, SR.59290

W. P. No. 21337 of 2017

KS (CO)
NR 25/09/2017



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