

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.11.2017

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No.28338 of 2013

and

W.M.P.Nos. 1 and 2 of 2013

S.Jaikrishnan

.. Petitioner

Vs

1.Secretary to Government,
Home Department,
Secretariat Chennai - 600 009.

2.The Chairman
Tamil Nadu Uniform Recruitment Board,
No.807, II Floor, Mount Road,
Chennai - 600 002.

3.The Director General of Police,
Mylapore,
Chennai- 600 004.

4.The Commissioner of Police,
Egmore,
Chennai - 600 008.

.. Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue of Writ of Certiorari-fied Mandamus, to call for the records of the 3rd respondent herein pertaining to the order R.C.No.77136/Rect.I(2)/2012 dated 05.09.2012, and quash the same and consequently direct the 3rd respondent to appoint the petitioner as Grade II Police Constable with all consequential benefits. सत्यमेव जयते

For Petitioner

: Mr.A.Kalaiselvan

For Respondents

: Mr.R.Vijayakumar

Additional Government Pleader

O R D E R

The relief sought for in this Writ Petition is to call for the records of the 3rd respondent pertaining to the order R.C.No.77136/Rect.I(2)/2012 dated 05.09.2012, and quash the same and further, to direct the 3rd respondent to appoint the petitioner as Grade II Police Constable in Tamil Nadu Police Service.

2.The affidavit filed in support of the Writ petition states that the petitioner had participated in the process of selection for Recruitment to the post of Grade-II Police Constable for the year 2001-2002 and accordingly, he was called to attend the medical test by the recruiting authorities. However, the writ petitioner has not passed in the medical test and his candidature for selection was rejected by the authorities. Challenging the same, the writ petitioner filed a writ petition in W.P.No. 29371 of 2011 and this Court, passed an order on 20.12.2011 and the writ petitioner has withdrawn the writ petition with liberty to approach the appropriate authority in respect of his grievances. Subsequently, after withdrawing the writ petition, the writ petitioner submitted a petition to the authorities on 13.02.2012.

3.The authorities considered the same and issued an order impugned in proceedings dated 05.09.2012, stating the reasons for rejection which is extracted hereunder:-

"3.Further the following points are submitted in respect of the request of Thiru.S.Jaikrishnan:-

(i). Thiru.K.Thiyagarajan (Regn.No.3103091) of Chennai City appeared for the year 2001-2003 have been considered for appointment as per the Court direction in W.P.No.7494 of 2008 dated 27.07.2010. Thiru.K.Thiyagarajan of Chennai City is not similar to that of the petitioner Thiru.S.Jaikrishnan because Thiru.K.Thiyagarajan was declared unfit due to lasik surgery done in both eyes on 29.12.2003 i.e. Prior to issue of G.O.Ms.No.678, Home (Pol.IX) Dept., dated 28.07.2006.

(ii) Thiru.S.Jaikrishnan belongs to 2001-2002 selectees and failed in the medical test and declared unfit for the post of Gr.II PC. In this connection an endorsement was already given to him in Rc.No.080992/Niyamanam.3/2003, dated 26.12.2003 stating that he is not eligible for the post of Gr.II PC for the year 2001- 2002 due to Colour Vision Defective in Both Eyes. The selection process cannot be prolonged for a period of decade.

(iii). As per G.O.Ms.No.1791, Home (Pol.III)Dept., dated.14.12.2007, the Government have directed a time limit for second medical examination that

a) A time limit of 3 months shall be prescribed for filing an appeal from the receipt of orders of the First Medical Board, and

B) The opinion of the Second Medical Board shall be taken as final.

(iv) As per G.O.Ms.No.1791, Home (Pol.III) Department dated 14.12.2007 he has not submitted the fitness certificate obtained from authorized medical attendant or registered medical practitioner/Government Medical Officer within a period of three months from the date of declaring him as medically unfit for the post of Gr.II.PC. Since the unfit endorsement was issued to him on 26.12.2003 but he has obtained a certificate from a medical officer on 18.4.2005 and another certificate dated 31.03.2012."

4.This Court is of the view that the writ petitioner has not passed in the Medical test as conducted by the Medical Board constituted for this purpose. It is specifically stated that the writ petitioner has failed in the medical test and declared unfit for appointment to the post of Grade-II Police Constable. The Police service being an uniformed service, there cannot be any compromise in respect of any medical test. This Court is not inclined to consider the findings of the Medical Board in respect of the fitness, more specifically, regarding medical aspects. The opinion of the Medical Board, being an opinion of an expert body, this Court cannot brush aside the same.

5.In this view of the matter, no further adjudication needs to be undertaken on merits in this writ petition. Accordingly, the Writ Petition stands dismissed. However, there shall be no order as to costs. Consequently connected miscellaneous petitions are also closed.

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

stm

To

1. Secretary to Government,
Home Department,
Secretariat Chennai - 600 009.

2. The Chairman
Tamil Nadu Uniform Recruitment Board,
No.807, II Floor,
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Chennai - 600 002.

3. The Director General of Police,
Mylapore,
Chennai- 600 004.

4. The Commissioner of Police,
Egmore,
Chennai - 600 008.

+1cc to Government Pleader SR.No.82031

W.P. No. 28338 of 2013

GN(13/12/2017)



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