



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.11.2017

CORAM:

**THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE**

W.A(MD)NO.1247 OF 2017

M.Balamurugan : Appellant/Petitioner

.vs.

1. The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Chennai.
2. The Recruitment Sub-Committee,
Tamil Nadu Uniformed Services Recruitment Board,
Madurai Centre & Deputy Inspector General of Police,
Madurai Range,
Madurai. : Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent praying this Court to set aside the order, dated 9.8.2017 in W.P (MD)No.14249 of 2017, on the file of this Court.

Prayer in WP(MD). 14249/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order vide C.No. R2/150/2017 dated 28.07.2017 on the file of the 2nd respondent and quash the same and direct the respondents to hold re-measurement of petitioners height and proceed with further process in the Common Recruitment for the posts of Gr.II Police Constables (Men, Women & Third Gender) Gr.II Jail Warders (Men & Women) and Firemen for the year 2017.

For Appellant : Mr.J.Senthil Kumaraiah

For Respondents : Mr.B.Pugalendhi
Addl.Advocate General
Assisted by
Mr.A.K.Baskarapandian
Special Govt.Pleader

**JUDGEMENT**

[Judgement of the Court was made by **M.VENUGOPAL, J.**]

WEB COPY This Writ Appeal has been filed praying this Court to set aside the order, dated 9.8.2017 in W.P(MD)No.14249 of 2017, on the file of this Court.

2.Heard both sides.

3.By consent, the main Writ Petition itself is taken up for final disposal.

4.According to the Learned Counsel for the Appellant, the impugned order of the Learned Single Judge, dated 9.8.2017 in W.P (MD)No.14249 of 2017 is *per se* not correct and further more, the same is not cemented on 'equity'.

5.The prime submission advanced on behalf of the Appellant is that the impugned order of the Learned Single Judge in W.P(MD) No.14249 of 2017, dated 9.8.2017 in dismissing the Writ Petition is liable to be set aside, because of the simple reason that the Appellant was not given a chance for measuring him by digital mode by the Second Respondent, after the manual measurement, according to the instructions to be followed in the recruitment.

6.Advancing his arguments, the Learned Counsel for the Appellant comes out with a plea that the 'manual measurement on a measurement point using a plate like object fixed by the Second Respondent is untenable', as the point visibly stands below the flat level of measurement, as seen in the video.

7.Lastly, it is the submission of the Learned Counsel for the Appellant that the Appellant is said to have the height measurement of 169.7 cms, whereas, the required height is 170 cms and further, it is pertinent to point out that if it is 0.2 cm short to 170 cms, it is rounded to 170 cms and if it is 0.3 cm short, it is rounded to 165 cms. Under the circumstances, if the measurement is properly done, the appellant would pass the test.

8.Per contra, it is the submission of the learned Additional Advocate General appearing for the Respondents 1 and 2 that the Appellant was a candidate to the common recruitment of Grade-II Police Constable/Grade-II Jail Warder/Firemen of 2017 with enrollment No.2407723. In fact, the Appellant belongs to MBC category. As a matter of fact, the Appellant had cleared the written examination and hence, he was called for Physical Recruitment Test/Endurance Test/Physical Efficiency Test on 28.7.2017 before the Sub-Committee, Madurai.



9.The Learned Additional Advocate General appearing for the Respondents 1 and 2 brings it to the notice of this Court that the candidate who qualifies in the Physical Measurement Test alone will be allowed to participate in the Endurance Test.

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10.The Learned Additional Advocate General proceeds to point out that during the Physical Measurement Test, the Appellant/Petitioner's height was measured as 169.5 cms and therefore, he was rightly disqualified in the height measurement and issued with disqualified slip under acknowledgement, as he did not satisfy the required physical measurement norms for height as 170 cms for MBC Category.

11.It comes to be known that the Writ Petition in W.P(MD) No.14249 of 2017 filed by the Appellant/Petitioner, wherein a prayer was sought to re-measure his height and proceed with further process. Considering the said submission, this Court on 9.8.2017 at paragraph 4 had observed the following:

'The video-graph in respect of height measurement of the Petitioner has been displayed before this Court in the presence of the Petitioner and his counsel. The video clipping/recording shows that the Petitioner has failed to possess minimum 170 cms of height, whereas, his height is 169.5, hence this Court is not inclined to entertain the prayer of the Petitioner and same was dismissed by this Honourable Madurai Bench of Madras High Court on 09.08.2017.'

12.In this connection, it may not be out of place to make a significant mention that the procedure of height measurement test was clearly detailed in Para No.XIII (1) of the Notification No.117, dated 23.1.2017.The minimum eligibility as mandated by Rule 14 of the Tamil Nadu Police Sub-ordinate Services in regard to the 'Physical Measurement Test' runs as under:

Community	Minimum Height	
	Men	Women
OC, BC, MBC-DNC, BC (M)	170 cms	159 cms
SC/ST	169 cms	157 cms

13.Apart from that, the norms for the Physical Measurement of Height and Chest are clearly explained in the Notification No.117 in Para XIII (1) and (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, which run as under:



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Event	For Male	For Female/Third Gender
Height	The height measurement should be minimum of 170 cm for all communities except SC/ST community which should be 167 cm.	The height measurement should be minimum of 159 cms for all communities except SC/ST community which should be 157 cm.
Chest	The chest measurement should be minimum of 81 in normal state and 5 cm expansion in a state of deep inspiration	Not applicable to women

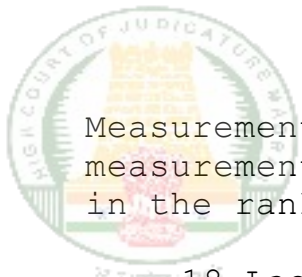
14.The emphatic plea taken on behalf of the Respondents 1 and 2 is that the Appellant is not able to fulfil the specific instruction given in the notification and in the brochure and as such, the Appellant/Petitioner was rightly disqualified as he did not have the minimum eligibility height requirement of 170 cms for MBC Category.

15.Besides this, the physical measurement for height and chest eligibility criteria to participate in the selection process for the above said recruitment is mandatory as per the category 8 of Rule 14(1)(b) of Annexure II of the Tamil Nadu Police Subordinate Service Rules.

16.The prescription of the possession of minimum height measurement for direct recruitment to the post of Grade-II Police Constable/Sub-Inspector of Police(men and women) is essential based on the amendment issued to the Special Rules for Tamil Nadu Police Subordinate Services in G.O.Ms.No.60, Home (Police-VI) Department, dated 20.1.2010 and the relevant portion is extracted as under:

'Note: In respect of male candidates, the height shall not be less than 170 cms. Provided that in the case of SC/ST candidates, the height shall not be less than 167cms.'

17.The other stand taken on behalf of the Respondents 1 and 2 is that the Appellant/petitioner had not raised any objection and not preferred any appeal before the Sub-Committee Chairman on his rejection under height measurement. Also that, he had accepted his dis-qualification in height measurement and also acknowledged the dis-qualification slip and Coding Sheet. As such, by stretch of no imagination, it can be said that the Appellant/Petitioner was not provided with the requisite opportunity. Furthermore, all disqualified candidates who preferred appeals at the sport in regard to the Physical



Measurement Test were provided with opportunities and indeed, re-measurement was also done by the Chairman of the Sub-Committee in the rank of Deputy Inspector General of Police.

18.Lastly, it is the version of the Respondents that the provisional selection list for medical examination and police verification was released on 31.8.2017, as per the direction of the Honourable Supreme Court of India in Writ Petition (C)No.183 of 2013, dated 24.4.2017.

19.Lastly, it is the submitted on behalf of the Respondents that the video recording was examined by the Sub-Committee, Madurai District, wherein, it was found that the Appellant/petitioner had 169.5 cms of height, as per the measurement and not having the qualified height of 170 cms. Since the Appellant/Petitioner was rightly disqualified and further he had not preferred any appeal and he was not subjected to digital measurement and the same was ascertained from the report of the Superintendent of Police, Madurai Sub-Committee, this Court comes to a resultant conclusion that the Writ Petition filed by the Appellant/Writ Petitioner is not per se maintainable in the eye of Law. Viewed in that perspective, the Writ Appeal sans merits.

20.In fine, the Writ Appeal stands dismissed, thereby affirming the view taken by the Learned Single Judge in dismissing the Writ Petition(MD)No.14249 of 2017, dated 9.8.2017, of course, for the reasons assigned in this Writ Appeal. No costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Chennai.
2. The Recruitment Sub-Committee,
Tamil Nadu Uniformed Services Recruitment Board,
Madurai Centre & Deputy Inspector General of Police,
Madurai Range,
Madurai.

+1cc to Mr.J.Senthil Kumaraiah, Advocate Sr.No.86976

VSN

VB/GT/SAR1/23/11/2017/5P/4C