



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2017

CORAM:

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

**W.A(MD)No.1318 of 2017
and
C.M.P(MD)No.9306 of 2017**

Thalapathi

.. Appellant/Petitioner

.vs.

1. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road,
Egmore,
Chennai - 600 008.

2. The Chairman,
Recruitment Sub-Committee,
Madurai Centre &
Deputy Inspector General of Police,
Madurai Range,
Madurai.

..Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, praying to set aside the order in W.P(MD)No.14437 of 2017 dated 17.08.2017 on the file of this Court.

Prayer in WP(MD). 14437/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus to call for the records pertaining to the impugned order dated 31.07.2017 in C.No.R2/150/2017 passed by the 2nd respondent and quash the same as illegal and consequently direct the respondents to conduct a fresh physical measurement test for the petitioner (Enrolment Number 2423955) for the post of Grade - II constable, Grade II Jail Warders and Firemen in the Tamil Nadu Uniformed Services Recruitment Board 2017.

For Appellants : M/s.D.Deepamathi for
M/s.R.Venkatesan

For Respondents : Mr.B.Pugalendhi,
Additional Advocate General
Assisted by
Mr.A.K.Baskara Pandian,
Special Government Pleader

**JUDGMENT***********

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

Heard both sides.

2. The Appellant/Writ Petitioner has filed the instant Writ Appeal as against the order dated 17.08.2017 in W.P(MD)No.14437 of 2017 passed by the Learned Single Judge.

3. The Learned Single Judge while passing the impugned order on 17.08.2017 in W.P(MD)No.14437 of 2017 filed by the Appellant as Writ Petitioner at Paragraph Nos.5 and 6 had observed the following and finally dismissed the Writ Petition:

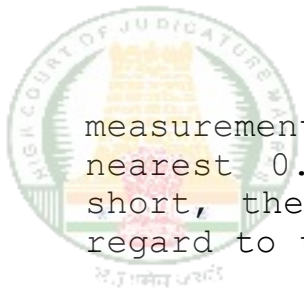
"5.As per the said direction, the learned Additional Advocate General appearing for the Respondent Police Department produced the video recordings and the same was played before me in the presence of the learned counsel on either side and also the petitioner.

6. A perusal of the same would go to show that while recording manually, the height of the petitioner was found to be 169.1 c.m., and during digital measurement, the petitioner was found to be 169.3 c.m., which are less than that of the actual level for being qualified. Hence, this Court is unable to find any infirmity in the impugned proceedings since, the petitioner is rightly found disqualified by the respondent police Department."

4. Questioning the Legality, Correctness and Validity of the impugned order dated 17.08.2017 passed by the Learned Single Judge in W.P(MD)No.14437 of 2017 in dismissing the Writ Petition, the Appellant/Writ Petitioner has filed the present Writ Petition by taking a plea that the Learned Single Judge had failed to consider that the Appellant/Writ Petitioner is 24 years old and he cannot participate in the next selection process due to his over age and his childhood dream is to become a Police Officer and to serve the State.

5. The Learned Counsel for the Appellant proceeds to submit that the Appellant/Writ Petitioner possessed sufficient skill and qualification for recruitment as a Police Constable in the Respondents' selection. But, this aspect of the matter was not taken into consideration by the Learned Single Judge in a proper and real perspective.

6. Added further, it is projected on the side of the Appellant that the Appellant/Writ Petitioner would get benefit of G.O.(Ms) No.60 dated 22.01.2015, which provides that all physical



measurements shall be rounded off to the nearest centimetre or nearest 0.5 centimetre and only he requires 0.7 c.m., and in short, the Writ Petition was dismissed without any discussion in regard to the points set out.

7. The Learned Counsel for the Appellant emphatically points out that the Learned Single Judge had failed to consider that the height of the Appellant was not measured correctly and ultimately the Writ Petition was dismissed without filing counter by the Respondents.

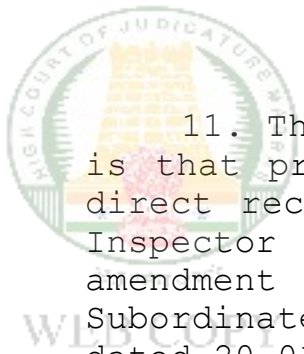
8. In response, the Learned Additional Advocate General for Respondent Nos.1 and 2 submits that during the 'Physical Measurement Test', the Appellant/Petitioner's height was measured manually as 169.1 c.ms., and the minimum height prescribed for M.B.C candidates was 170 c.ms., and inasmuch as the Appellant felt short of the required height, he was rightly disqualified and was issued with 'Disqualification Slip' after obtaining necessary acknowledgment from him.

9. Continuing further, on behalf of Respondent Nos.1 and 2, it is brought to the notice of this Court that the Appellant/Writ Petitioner made an Appeal before the Deputy Inspector General of Police, Chairman of the Sub-Committee, Dindigul to re-measure the height with digital measurement and the reading showed 169.3 c.ms., and in fact, the Appellant/Writ Petitioner had not fulfilled the required physical measurement norms for height as 170 c.ms., for MBC candidates and therefore, he was disqualified in 'Physical Measurement Test'.

10. The Learned Additional Advocate General for Respondent Nos.1 and 2 draws the attention of this Court that the procedure of 'Height Measurement Test' was mentioned in Paragraph No.XIII (1) of Notification No.117 dated 23.01.2017 and under the caption 'Physical Measurement Test', the minimum eligibility as mandated by Rule 14 of Tamil Nadu Subordinate Service Rules runs as under:

Community	Minimum Height	
	Men	Women
OC, BC MBC-DNC, BC (M)	170 cms	159 cms
SC/ST	167 cms	157 cms

Besides that, the Members of the Sub-Committee apart from Chairman (D.I.G of Police) are (i) Superintendent of Police, (ii) Additional Superintendent of Police, (iii) Deputy Superintendent of Police (iv) Superintendent of Prison or Additional Superintendent of Prison and (v) District Officer for Fire and Rescue.



11. The prime argument focussed on the side of the Respondents is that prescription of the possession of 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 20.01.2010 and the relevant portion is produced hereunder:

"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 167 cms. "

12. It is to be noted that the stern point of view of the Respondents is that the video recording was personally viewed by the Selection Board and also by the Learned Single Judge and as such, the filing of the Writ Appeal by the Appellant/Writ Petitioner, is *Per Se* not maintainable since he failed to possess the minimum height of 170 cms.

13. At this stage, this Court on perusal of the impugned order of the Learned Single Judge dated 17.08.2017 in W.P(MD)No.14437 of 2017, is of the considered opinion that the Learned Single Judge had viewed the video recording produced by the Police Department in the presence of Advocates on respective sides and also the Appellant/Writ Petitioner and ultimately, came to the conclusion that the height of the Petitioner while recording manually was found to be 169.1 c.ms., and at the time of digital measurement, the height of the Appellant/Petitioner was found to be 169.3 c.ms. It is latently and patently quite evident that the Appellant felt short of the actual measurement, which he required for getting qualified. In short, this Court holds without any hesitation that the view taken by the Learned Single Judge in dismissing the Writ Petition is free from any legal flaw. Resultantly, the Writ Appeal fails.

14. In fine, the Writ Appeal is dismissed leaving the parties to bear their own costs. The order passed by the Learned Single Judge in W.P(MD)No.14437 of 2017 dated 17.08.2017 in dismissing the Writ Petition, is confirmed for the reasons assigned in this Writ Appeal. Consequently, connected Civil Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(AE)

/True Copy/



To

1. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road,
Egmore,
Chennai - 600 008.

2. The Chairman,
Recruitment Sub-Committee,
Madurai Centre &
Deputy Inspector General of Police,
Madurai Range,
Madurai.

+ 1 cc TO The Special Government Pleader in SR No. 90662

pm

AE/KK/SAR1/18.12.2017/5P/4C

**JUDGMENT MADE IN
W.A(MD) No.1318 of 2017
30.11.2017**