



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.1451 of 2017
and
C.M.P. (MD) No.11139 of 2017

M.Manickam

: Appellant

Vs.

1. The Director General of Police,
Dr.Radhakrishnan Salai,
Chennai-4.
2. The Chairman,
The Tamil Nadu Uniformed Services
Recruitment Board,
No.807, Sengalvarayan Naicker Building,
Anna Salai,
Chennai-600 002.
3. The Deputy Inspector General of Police,
(Recruitment Sub-Committee, Madurai Centre),
Maduran Range,
Madurai.

: Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, praying to set aside the order dated 17.08.2017 made in W.P. (MD) No.14677 of 2017.

Prayer in WP (MD) No.14677/2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified mandamus direction in the nature of writ calling for the records relating to the impugned order passed by the 3rd respondent in C.No.R2/150/2017 dated 31.07.2017 with respect to the petitioner enrolment No.2425881 and quash the same and consequently direct the 2nd and 3rd respondents to conduct fresh physical measurement test to measure the chest of the petitioner and also direct the 2nd and 3rd respondents to conduct the remaining others physical efficiency test and further direct the respondents to permit the petitioner to participate in the subsequent stage of the



selection for the post of Grade II police Constables (Men, Women & third Gender) Gr II Jail Warders (man and women) and firemen for the year 2017.

For Appellant : Mr.R.Gowrishankar
For Respondents : Mr.VR.Shanmuganathan,
Special Government Pleader

JUDGMENT

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

Heard both sides.

2. The Appellant/Writ Petitioner has preferred the present intra-Court Writ Appeal as against the order dated 17.08.2017 in W.P.(MD)No.14677 of 2017 passed by the Learned Single Judge.

3. The Learned Single Judge, while passing the impugned order in W.P.(MD)No.14677 of 2017, on 17.08.2017 filed by the Appellant/Writ Petitioner, at Paragraph Nos.5 and 6, had observed the following and ultimately, dismissed the Writ Petition finding no illegality or error in the impugned rejection order:-

"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 the petitioner's chest measurement is found to be 92.6 c.m. normally and during expansion, it is found to be 97.3 c.m., which is 0.3 c.m., less than that of the actual level for being qualified, as the minimum expansion requirement is 5 c.m. Hence, the petitioner is rightly found disqualified by the respondent Police Department."

4. Assailing the validity and legality of the impugned order dated 17.08.2017 in W.P.(MD)No.14677 of 2017 passed by the Learned Single Judge, the Learned Counsel for the Appellant strenuously contends that the Learned Single Judge should have directed the Respondents to re-measure the Appellant's Chest Expansion Measurement before any one Honest Officer or the Registrar of this Court. However, the Learned Single Judge had decided to view the video recordings, which is not a correct one.

5. Advancing his arguments, the Learned Counsel for the Appellant projects an argument that the present shortage of expansion measurement of the Appellant is 0.3 cm and if re-measurement is ordered, the entire controversy would be solved. However, in regard to the video clip, it is the submission of the



Learned Counsel for the Appellant that no one can identify that the expansion measurement was taken after full breadth or not.

6. Expatiating his contention, the Learned Counsel for the Appellant proceeds to point out before this Court that the Learned Single Judge should have taken into consideration that the cut-off date for participation in the selection will be over by this year and, therefore, the Learned Single Judge should have directed the Respondents to re-measure the Appellant's Chest Expansion. It is the stand of the Appellant that in the non-speaking impugned Disqualification Slip dated 31.07.2017, the details for rejection and what is the measurement, etc., are not stated, which is not sustainable in the eye of law.

7. The Learned Counsel for the Appellant comes out with a plea that the main allegation of the Appellant is that the Officer measured the Chest Expansion of the Appellant before he completed his full breadth and hence, the video clip also had shown the said incident alone, which resulted in shortage of 0.3 cm chest expansion for being selected. Therefore, the version of the Appellant is that the re-measurement is the only answer to the present controversy. On this score alone, the impugned order of the Learned Single Judge passed in W.P.(MD)No.14677 of 2017, dated 17.08.2017, is liable to be interfered with by this Court.

8. Conversely, it is the submission of the Learned Special Government Pleader appearing for the Respondents that the Appellant's Chest Measurement was done in the Physical Test conducted on 31.07.2017 (Monday) and the Learned Single Judge, to satisfy subjectively himself, as to the plea taken on behalf of the Appellant/Writ Petitioner in the Writ Petition, had seen the video recordings being played before him in the presence of Learned Counsel on either side and also the Appellant's side and ultimately, came to the conclusion that the Appellant's Chest Measurement was to be 92.6 cm ordinarily and at the time of expansion, it was found to be 97.3 cm, which is 0.3 cm, falling short of the actual requirements for being qualified, inasmuch as the minimum expansion requirement is 5 cm.

9. In this regard, this Court has perused the Disqualification Slip issued by the third Respondent dated 31.07.2017 and is of the earnest opinion that the third Respondent had assigned the following reasons:-

- "a) Not possessing required Educational Qualification.**
- b) Not fulfilling Age Norms**
- c) Not fulfilling Physical Measurement Norms**
 - 1) Height 2) Chest**
- d) Not qualified in the Endurance Test."**

for disqualification and intimated the same to the Appellant/Writ Petitioner. In the Disqualification Slip dated 31.07.2017 of the third Respondent, it was clearly mentioned that the Appellant had

not fulfilled the Physical Measurement Norms as regards **Chest**.

10. In view of the foregoing and also this Court, on going through the impugned order dated 17.08.2017 in W.P.(MD)No.14677 of 2017 passed by the Learned Single Judge, is of the considered view that the said order of Learned Single Judge in dismissing the Writ Petition is free from any legal flaw. Resultantly, the Writ Appeal fails.

11. In fine, the Writ Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

1. The Director General of Police,
Dr.Radhakrishnan Salai,
Chennai-4.
2. The Chairman,
The Tamil Nadu Uniformed Services
Recruitment Board,
No.807, Sengalvarayan Naicker Building,
Anna Salai,
Chennai-600 002.
3. The Deputy Inspector General of Police,
(Recruitment Sub-Committee, Madurai Centre),
Maduran Range,
Madurai.

+ 1 CC TO M/s.R.GOWRI SHANKAR, ADVOCATE IN SR No. 90643

SML

TE/GT/SAR-1 : 22/12/2017 : 4P/5C

Judgment made in
W.A. (MD)No.1451 of 2017 and
C.M.P. (MD)No.11139 of 2017
Dated: 30.11.2017