

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.09.2018

Coram

The Hon'ble Mr. Justice Satrugana Pujahari

Writ Petition No. 22605 of 2018

and

W.M.P.No.26457 of 2018

Babu

...Petitioner

Vs.

The Chairman,
Tamil Nadu Uniform Service
Recruitment Board,
Chennai - 600 008.

....Respondent

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus directing the respondent to consider the representation of the petitioner dated 20.08.2018 in accordance with law and direct the respondent to include the petitioner's name in the provisional selection list for the post of Police Constable, Jai Warden and Fireman - 2018 to secure the ends of justice.

For Petitioner : Mr. R.Sankarasubbu

For Respondent : Mrs. Narmada Sampath
Additional Advocate General
Assistant by Mrs. R. Janaki
Additional Government Pleader

सत्यमेव जयते
ORDER

Heard, Mr. R.Sankarasubbu, the learned counsel appearing for the petitioner and Mrs. Narmada Sampath, Additional Advocate General assisted by Mrs. R. Janaki, learned Additional Government Pleader who accepts notice on behalf of the respondent. With the consent of the learned counsel on either side, the Writ Petition is taken up for disposal.

2. The grievance of the petitioner in this Writ Petition is that, he is not allowed to participate in the second round of physical endurance test, though he has secured '57' marks, which is more than the cut-off marks of open category i.e., '51', on the ground that he has not uploaded his certificate to prove

that he has required educational qualification, even though he has passed qualifying exam in two attempts.

3. Heard the learned counsel appearing for the parties. This Court in similar facts and situation also passed in W.P.No.22387 of 2018, disposed of the Writ Petition directing the respondent to allow the petitioner to participate in the second round of test, i.e. the physical endurance test, vide order dated 29.08.2018 and the relevant portion of the order is reproduced herein below:-

" 4. The case of the petitioner is that he was in possession of certificates on the date of his application. But inspite of chances given, the petitioner could not upload the same. However, the petitioner is residing in a remote area where there is no easy access to Internet and at time technical glitches also occurred, such technical glitches are also frequent in this country. Therefore, inspite of opportunity given, even if the petitioner had not uploaded, as he is stated to be fully qualified and was also in possession of the Educational qualification certificates on the date of his application, non furnishing of the certificate of the petitioner at the time of application as such cannot be viewed adversely, dis-entitling him to be considered, when he is a meritorious candidate in that category and inclusion of his name in the provisional list on the basis of minimum cut of marks is not going to adversely affect any other candidature in his category as gathered from the counsel for the respondent. Therefore, this Court is of the view that this writ petition can very well be disposed of granting the relief to the petitioner without seeking any reply affidavit. Hence, the writ petition stands disposed of with a direction to the respondent to verify the certificate of the petitioner and if the respondent is satisfied of the fact of his possessing the requisite educational qualification on the date of application and has secured required cut off marks for inclusion in the provisional list of the said category, to include his name in the provisional list for qualifying for second round of test i.e physical efficiency test. The order having been passed in the presence of the learned counsel appearing for the

respondent, the same be communicated to the respondent that this Court has allowed him to participate subject to verification of his community certificate and other qualification and also the qualifying cut off marks in the priority category. The petitioner may also furnish an affidavit in this regard before the respondent, who on receipt of the same shall act accordingly without awaiting for this order but the petitioner shall produce the order immediately on receipt of the same. However, production of affidavit should not be condition precedent as this Court has already directed the respondent counsel to intimate the order. No costs. Consequently, the connected miscellaneous petition is closed. However it is made clear that the petitioner if does not possess the qualification and the community certificate on the date of his application, the same entails rejection of his candidature. "

4. In view of the aforesaid order, this Writ Petition stands disposed of with an order giving a direction to the respondent to allow the petitioner to participate in the examination in terms of the aforesaid order. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

sd/mrm

To

The Chairman,
Tamil Nadu Uniform Service
Recruitment Board,
Chennai - 600 008.

+1cc to Mr.R.Sankarasubbu, Advocate, S.R.No.60495

W.P. No. 22605 of 2018

RJI (co)

rrs 05/09/2018