



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 12.03.2018

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM
AND

THE HONOURABLE Mrs.JUSTICE R.THARANI

W.A. (MD) .No.372 of 2018

and

C.M.P. (MD) No.2285 of 2018

R.Vijay

... Appellant/Petitioner

Vs.

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

... Respondent/ Respondent

PRAYER: This appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 15.11.2017 and passed in W.P. (MD) No.17478 of 2017.

Prayer in WP(MD). 17478/ 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 pertaining to the impugned order of common recruitment of Gr.II Police, Jail Warders and Firemen - 2017 mentioning the individual marks of the petitioner, quash the same as illegal and consequently direct the respondent to select the petitioner for the post of Grade II Police Constable (Men and Women and 3rd Gender) Gr II Jail Warden (Men and Women) and Firemen by awarding two marks on the basis of NCC Certificate of the petitioner.

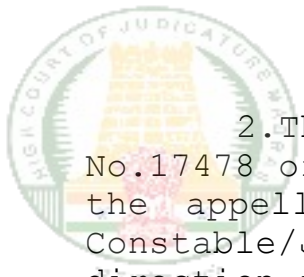
For Appellants : Mr.K.Baalasundharam for
Mr.R.Paranjothi

For Respondent : Mr.B.Pugalendhi, AAG assisted by
Mr.A.K.Baskarapandian, Spl.G.P.

JUDGMENT

(Judgment of this Court was delivered by **T.S.SIVAGNANAM, J.**)

Heard Mr.K.Baalasundharam, learned counsel for Mr.R.Paranjothi, learned counsel for the appellant and Mr.B.Pugalendhi, learned Additional Advocate General instructed by Mr.A.K.Baskarapandian, learned Special Government Pleader appearing for the respondent.



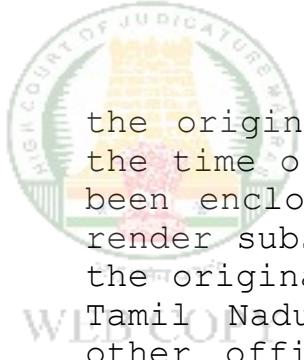
2.This appeal is directed against the order in W.P.(MD) No.17478 of 2017 dated 15.11.2017. The writ petition was filed by the appellant challenging the select list for Grade-II Police Constable/Jail Warder/Fireman - 2017 and for a consequential direction to direct the respondent to select the appellant for the post of Grade-II-Police Constable by awarding 2 marks on the basis of NCC Certificate produced by the appellant.

3.We have verified OMR application, in which the appellant in column 25(9) has clearly shaded that he possess the NCC Certificate. The application form mandates that attested xerox copies of the documents are to be enclosed along with the application. It is not the case of the appellant that he had enclosed the attested copies of the documents to substantiate his claim for grant of special marks for NCC and at the time of certificate verification he has produced the original certificates. However, when the mark list was released, it showed that the appellant had secured 48 marks in the written test, 15 marks in the physical examination test and totally 63 marks, but was not awarded any special marks and since the appellant did not come within the cut off mark for backward class, he was not selected.

4.When the appellant put to challenge his non selection, the Writ Court considered the submissions and issued an interim direction on 30.10.2017. The respondent contested the claim of the appellant by filing counter affidavit stating that the appellant though had produced the copy of NCC certificate along with the application and the originals of the same had not been produced by the appellant at the time of certificate verification as required in Clauses 30 and 31 of information brochure.

5.The said contention was clearly disputed by the appellant before the Writ Court. The Writ Court found that the respondent has not placed any materials or record maintained in which entries have been made by the concerned officials regarding non production of the original documents by the appellant at the time of certificate verification as claimed by them in the counter affidavit. Further, the Court observed that in response to a specific query made by the Court, the respondent submitted that no communication had been sent to the appellant that the original documents had not been submitted by him at the time of certificate verification, which would have the resultant effect of interfering that the respondent could proceed on the basis that the appellant is not entitled to be awarded prescribed marks for the original documents that he had not produced.

6.The Court after considering the factual position observed <https://hcc.mca.ecm.hq.gov.in/hccservices/> that the appellant circumstances of the case requires to ensure transparency and fairness in public recruitment and the Writ Court was not in a position to accept the claim of the respondent that



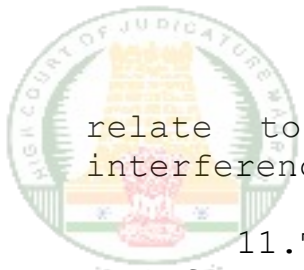
the original document had not been submitted by the appellant at the time of certificate verification though copies of the same had been enclosed along with the application. Thus, with a view to render substantial justice, the appellant was permitted to produce the original documents for verification before the Chairman of the Tamil Nadu Uniform Service Recruitment Board, Chennai, or any other officer authorised by him on or before 09.11.2017 and a report in compliance thereof to be filed before the Court on or before 13.11.2017. The appellant complied with the condition and produced the original certificates before the Board on 06.11.2017 and the Inspector General of Police and Member Secretary of the respondent filed a report before the Court, in which, it reiterated that the appellant has not produced the original before the Sub Committee during certificate verification. Ultimately, the writ petition was taken up for final disposal and dismissed by order dated 15.11.2017.

7. On a reading of the order, we find there is factual discrepancy and it appears that the order pertains to a dispute raised by a candidate with regard to the marks awarded in the OMR sheet.

8. The learned Additional Advocate General was fair in his submission by contending that the order passed in the writ petition does not pertain to the appellant's case. However, it is his submission that the information brochure mandates that the copy of the certificate should be enclosed along with the application and originals to be produced at the time of certificate verification. Therefore, the appellant having not complied with the same, he is not entitled to be selected. Though we partly agree with the submission of the learned Additional Advocate General that the conditions stipulated in the information brochure are the rules for selection and such rules have to be given strict interpretation and there can be no latitudes or relaxation by the Writ Court.

9. However, we find that the facts of the instant case requires a different interpretation more so when the Writ Court while passing the interim direction dated 30.10.2017 was of the opinion that the action of the respondent was not fair and therefore, direction was given to produce the original document before the concerned authority. Thus it will be too late for the respondent to now contend that the appellant should be non-suited for having not produced the original certificates at the time of certificate verification (even assuming so). The respondent Board having not challenged the interim direction dated 30.10.2017 passed in the writ petition are estopped from raising such a plea before this Court in this appeal.

10. Therefore, for the above reasons, we find that the case as projected by the appellant merits consideration. However, since it is conceded that the order passed in the writ petition does not



relate to the case of the appellant, the same calls for interference.

11. The learned Additional Advocate General submitted that as of now, selection process for the year 2017 recruitment is over and the selected candidates have been sent for training. However, we are informed that selection process has commenced for the year 2018 recruitment and the written test has been conducted. Therefore, as there are number of vacancies in which the appellant can be accommodated and on a technical plea, the appellant should not be denied employment. Thus, for the above reasons, this writ appeal is allowed and the impugned order is set aside. The respondent is directed to select and appoint the appellant as Grade-II Police Constable in the vacancy notified in the 2018 recruitment. This direction is in the alternate that if in the event, there are no vacancies for the 2017 recruitment on account on non joining of candidate or for other reasons. Therefore, the respondent is first to consider and accommodate the appellant in 2017 batch and if there are no vacancies, he has to be considered for the vacancies notified in the 2018 recruitment. The above direction to be completed within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

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

+1cc to K.Baalasundharam, Advocate SR.No.54631
+1cc to The Spl. Government Pleader Sr.No.54795

ARUL

VB/SKN/RSK/SAR4/21.03.2018/4P/4C

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