



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 09.02.2018

CORAM :

WEB COPY

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)Nos.2689 of 2014

and

M.P.(MD) Nos.1 &amp; 2 of 2014,

WMP(MD)Nos.1340 and 4633 of 2017

S.Sathish Kumar

... Petitioner

**Vs.**

The Tamil Nadu Uniformed Service  
Recruitment Board,  
rep. by its Secretary,  
No.807, P.T.Lee,  
Chengalvaraya Naicker Maaligai,  
Anna Salai, Chennai - 600 002.

... Respondent

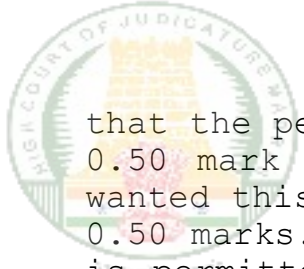
**Prayer** : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to award the petitioner the required mark of "0.50" either under the category of "B" grade in "NCC" or under the category "A" Grade in "NSS" for which the petitioner has the required grade certificates and to select and appoint him to the post of Grade-II Police Constable or Grade-II Jail Warden or Fireman or any other suitable post for the year 2012 in the respondent's department with all consequent benefits.

|                |                                                  |
|----------------|--------------------------------------------------|
| For Petitioner | : Mr.A.Thirumurthy for<br>M/s.Victory Associates |
| For Respondent | : Mrs.S.Srimathy, Spl. G.P.                      |

**ORDER**

The petitioner was an applicant for the post of Grade-II Police Constable or Grade-II Jail Warden or Fireman for the year 2012. The petitioner was awarded 66.50 marks. The petitioner belongs to Most Backward Class category. The cut off mark fixed by the Board for the said category is 67 marks. The petitioner is short of the said cut off mark by 0.050 marks.

<https://hcservices.court.gov.in/> The petitioner was originally under the impression that extra marks were not given for the petitioner having been in NCC and NSS. But, on verification of the records, it has been clearly admitted



that the petitioner was awarded 1 mark for having B grade in NCC and 0.50 mark for having been in NSS. The learned counsel therefore wanted this Court to round off of the marks secured by him by adding 0.50 marks. In support of his contention that for such a round off is permitted, the learned counsel placed reliance on the following cases:

(i) **State of U.P. And another Vs. Pawan Kumar Tiwari and others - (2005) 2 SCC 10.**

(ii) **R.Elangovan Vs. Tamil Nadu Government rep. by its Secretary Higher Education Department, Chennai & Others (2007) 7 MLJ 1041**

(iii) **V.Balaji Vs. The Director General of Police, Chennai and others - 2011 (2) CWC 834 and**

(iv) **M.Kavitha Vs. The Director of Teacher Education, Chennai - dated 21.04.2017.**

3.This Court is unable to agree with the petitioner's submission. It has been consistently held by the Hon'ble Supreme Court atleast from the year 2011 onwards that when minimum marks has been prescribed, there can be no relaxation or rounding off in the absence of any power provided under the rules. The current legal position is that rounding off marks to next higher digit in absence of statutory provisions for the same is impermissible. Pawan Kumar Tiwari case relied on by the learned counsel for the petitioner has been dealt with in **2011(8) SCC 108 - Orissa Public Service Commission V. Rupashree Chowdhary**. The Division Bench of this Court in the decision reported in **2010(4) MLJ 1038 - Registrar, Tamil Nadu Teachers Education University V. K.S.Sasi Kumar**, after referring to Pawan Kumar Tiwari case held that rounding off will not be permitted. The question is whether in the recruitment norms, rules or procedures, such rounding off is allowed. If there is a prohibition or if the norms are silent, this Court cannot by a sense of sympathy permit rounding off of the marks secured by the candidate. As observed by the Hon'ble Division Bench in **2010(4) MLJ 1038**, this Court can only feel sorry for the candidate, who has missed the winning post by a whisker. But, the fact remains that he has missed it. This Court has neither authority nor the discretion to push him past it ignoring the Rules/Regulations. Judicial discretion is limited. It cannot be absolute. So therefore having regard to the recruitment norms covering the case this Court is unable to follow the decision relied on by the learned counsel for the writ petitioner.

4.This writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/



The Secretary,  
Tamil Nadu Uniformed Service Recruitment Board,  
No.807, P.T.Lee,  
Chengalvaraya Naicker Maaligai,  
Anna Salai, Chennai - 600 002.

+ 1 CC TO Mr.A.THIRUMURTHY, ADVOCATE IN SR No. 47567  
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 48252

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TE/KKR/SAR-1 : 07/05/2018 : 3P/4C

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