



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2018

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P.(MD)No.22816 of 2018

and

W.M.P.(MD) Nos.20684 and 20685 of 2018

M.Kanagavel

...Petitioner

Vs.

1) The Member Secretary,  
Tamil Nadu Uniformed Services Recruitment Board,  
Chennai 600 008

2) The Director General of Police,  
O/o Director General of Police,  
Chennai 600 008

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent's Notification No.1/2018 dated 11.07.2018 and quash the clause 11(b) as illegal and in consequence thereof declare the candidature of the petitioner as eligible for the post of Sub Inspector of Police (Technical) and further direct the first respondent to award full marks for 16 questions attended by the petitioner.

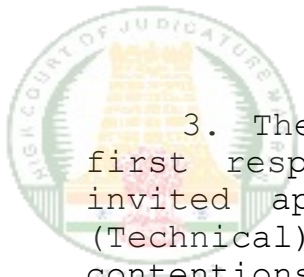
For Petitioner : Mr.P.Ganapathi Subramanian

For Respondents : Mr.A.Muthukaruppan,  
Additional Government Pleader.

O R D E R

The prayer sought for in this Writ Petition is for seeking to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent's Notification No.1/2018 dated 11.07.2018 and quash the clause 11(b) as illegal and in consequence thereof declare the candidature of the petitioner as eligible for the post of Sub Inspector of Police (Technical) and further direct the first respondent to award full marks for 16 questions attended by the petitioner.

2. Heard Mr.P.Ganapathi Subramanian, learned counsel appearing for the petitioner and Mr.A.Muthukaruppan, learned Additional Government Pleader appearing for the respondents.



3. The learned counsel for the petitioner submitted that the first respondent/Tamil Nadu Uniformed Services Recruitment Board invited applications for the post of Sub Inspector of Police (Technical) dated 11.07.2018 vide Notification No.1 of 2018. The contentions raised by the writ petitioner is that clause 11(b) of the notification is illegal and therefore, it has to be quashed and the petitioner should be awarded full marks for 16 questions which were wrongly framed.

4. The learned Additional Government Pleader appearing for the respondents would submit that the notification inviting applications for the post of Sub Inspector of Police (Technical) was published on 11.07.2018. Written examination was conducted on 13.09.2018 and the list of successful candidates was published on 02.11.2018. The Physical Measurement Test is scheduled to be conducted on 19.11.2018. At this juncture, the petitioner herein who has participated in the recruitment process cannot challenge clause 11 (b) of the impugned notification, which stipulates the following physical measurements:

"11. Physical Measurement Test and Certificate Verification:

Number of candidates to be called for next stage of Physical Measurement Test and Certificate Verification will be only 5 times of vacancies.

a. Height:

| Community              | Men     | Women & Transgender |
|------------------------|---------|---------------------|
| OC, BC, BC (M) MBC/DNC | 163 cms | 154 cms             |
| SC, SC (A), ST         | 160 cms | 152 cms             |

b. Chest:

Chest Measurement will be done for men only. Minimum size 80 cms. Minimum Expansion 5 cms. The Departmental candidates are exempted from Physical Measurement Test."

5. Further, the learned Additional Government Pleader appearing for the respondents would submit that regarding the alleged error in 16 questions, the petitioner's plea is unsustainable since all the participants have faced the same questions and whether it is wrongly framed or not, the same cannot be gone into at this juncture.

6. However, the learned counsel for the petitioner would submit that the physical fitness requirement which forms a part of 11(b) in the notification was earlier deleted by virtue of a Government Order passed in the year 2016. Since the policy makers have thought fit that no physical measurement is mandatory for technical posts, they have rightly excluded the said requirement and thereafter, introduced the same in clause 11(b) of the notification is illegal. Likewise, pointing out some questions which have no correct or suitable alternate answer, the learned counsel would submit that the Court should interfere before allowing the respondents herein to proceed further in the selection process.



7. This Court is unable to countenance the request made by the petitioner herein. The petitioner is well aware of clause 11(b) while applying and having accepted the said clause, he has participated in the examination. After getting selected for the physical measurement test, now he cannot plead that the said clause is illegal or ultra vires. Extending physical fitness requirement for a staff in Police Department, even if it is in the technical cadre, cannot be an unjust expectation. Just because the said clause was deleted earlier by the Government Order and now, again reintroduced in the notification, it does not give a ground for the petitioner herein that the Recruitment Agency cannot insist upon the physical fitness, more so, when the recruitment is for Police Department.

8. As far as earlier point regarding the questions and multiple choice answers provided, no doubt, this Court in some cases has interfered and appointed experts and in some cases, they themselves have acted as experts and have gone into the rightness of the questions and answers. But this is not a case for the Court to interfere at this time and find out whether the questions and multiple answers provided are right or wrong. Whether it is right or wrong, the same questions have been faced by all the candidates. Finding fault with the questions, which, now-a-days has become very common, this will set the entire selection process at naught.

9. The petitioner who has taken up the written examination on 03.09.2018 ought to have atleast approached the Authority or the Court for the alleged error in the question paper. Awaiting for the results to be published and thereafter, now found himself short of requirement to physical measurement test, the petitioner has camouflaged and couched the prayer in the writ petition in such a way as if there is illegality in the entire selection process and terms of the notification. The Court cannot be a mute spectator and interfering in the writ petition which will derail the selection process. Hence, this Court finds no merit in this writ petition and accordingly, the Writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar(CS-III)



To

1) The Member Secretary,  
Tamil Nadu Uniformed Services Recruitment Board,  
Chennai 600 008

2) The Director General of Police,  
O/o Director General of Police,  
Chennai 600 008

• 1 CC TO Mr.P.GANAPATHI , ADVOCATE IN SR No. 95552.  
+1 cc to Special Government Pleader, SR.No.95660.

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Order in  
W.P. (MD) No.22816 of 2018  
15.11.2018