



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.09.2018

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THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.19537 of 2018

N.Harihara Sudhan

... Petitioner

-vs-

1. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Pantheon Road, Egmore,
Chennai-600 008.
2. Tamil Nadu Uniformed Services Recruitment Board,
Rep. by its Member Secretary,
Pantheon Road, Egmore,
Chennai-600 008.
3. The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents herein to provide an alternative date instead of 05.09.2018 to any other date for the petitioner to appear in the 2nd stage of physical examination for selection to the post of Grade II Police Constable for the year 2017-2018 pursuant to the petitioner's representation dated 05.09.2018 and 06.09.2018.

For Petitioner : Mr.D.Srinivasa Ragavan

For Respondents : Mr.K.Chellapandian
Addl. Advocate General
Assisted by Mr.A.K.Baskara Pandian
Spl.Govt.Pleader

O R D E R

This petition has been filed, seeking to direct the respondents herein to provide an alternate date instead of 05.09.2018 to any other date for the petitioner to appear in the 2nd stage of physical examination for selection to the post of Grade II Police Constable for the year 2017-2018 pursuant to the petitioner's representation dated 05.09.2018 and 06.09.2018.

Brief Facts:

2. The case of the petitioner is that he has applied for the post of Grade II Police Constables (Men) / Grade II Jail Warders (Men) / Firemen for the year 2017-2018 and secured 60 marks in the written examination, thereby he was eligible for Physical Endurance Test. After clearance of 1st stage of his physical examination, he



was waiting for the next round of selection process, scheduled to be held on 05.09.2018;

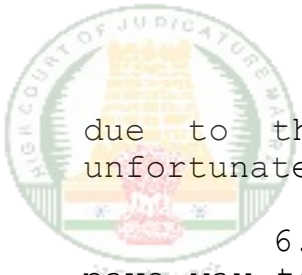
2.1. While so, when he was riding bicycle on 04.09.2018 during night hours, he met with an accident and suffered injury in his left articular point and he was admitted in Tirunelveli Medical College at about 10:00pm on 04.09.2018 and was discharged from the hospital in the afternoon on 05.09.2018, which made it impossible for him to attend the 2nd stage of physical exam;

2.2. Since he could not attend the exam on 05.09.2018, he sent an email to the 3rd respondent, informing his inability to attend the test on 05.09.2018 on account of the accident. Narrating all these facts, he requested the 3rd respondent to provide for some other date to appear for the 2nd stage of physical examination. Though he sent two representations dated 05.09.2018 and 06.09.2018 to the 3rd respondent in that regard, his representations did not evoke any response, which forced the petitioner to appear before this Court with the relief stated supra. Contending that his non appearance is neither wilful nor wanton, but only due to the accident that had taken place on 04.09.2018, it is prayed that an alternate date may be provided to the petitioner so as to enable him to appear for the 2nd stage of physical exam, namely, rope climbing, long jump, 400m running.

3. Learned Additional Advocate General appearing for the respondents would submit that when a date is fixed for the test, it is the duty cast upon the petitioner to attend the same and if the contention of the petitioner is accepted, there is a possibility of other candidates knocking at the doors of this Court with the similar request. He would further submit that since dates for physical measurement test, endurance test and physical examination test had already been fixed, it will certainly create confusion, if the date is rescheduled. If the request of the petitioner is acceded to, it will create a bad precedent so as to induce other candidates to knock at the doors of this Court with such request and it will stall the entire selection process. Therefore, it is prayed that this petition is devoid of merits and the same is liable to be dismissed.

4. Heard the learned counsel for the petitioner and also the Additional Advocate General appearing for the respondents. This Court also perused the material documents available on record.

5. It is seen that the petitioner had cleared the 1st stage of physical measurement test in respect of height, chest measurement and 1500 metre running on 02.09.2018 and when he was prepared to attend the 2nd stage of physical examination, from the records, it is obvious that he met with an accident and admitted in the Government Hospital, Tirunelveli, which was the reason as to why the petitioner did not appear for the physical examination test on 05.09.2018. Thus, it is contended that his non appearance on that date was not



due to the fault of the petitioner, but on account of the unfortunate accident.

6. It is true that if the scheduled date is altered, it may pave way to other candidates to unsettle the settled candidates and bring the entire process of recruitment to a standstill. But, in the present case on hand, as could be seen from the documents produced, the fault is not on the part of the petitioner, but the destiny played a crucial role in preventing the petitioner from appearing for the test. Since the recruitment is scheduled for selection to various posts in the uniformed services, it is open to the respondents to ascertain the genuineness of the accident, in which, the petitioner was stated to be injured.

7. Be that as it may, there are evidences to show that the petitioner had met with an accident and got admitted in the hospital and as the selection process is not complete as on date, there is no hurdle on the part of the respondents in giving one more opportunity to the petitioner to participate in the physical efficiency test that may be scheduled on anyone of the dates convenient to the respondents before 26.09.2018.

8. Accordingly, this writ petition is disposed of, with the following directions:

i) the respondents are directed to fix an alternate date on or before 26.09.2018 for conducting the Physical Efficiency Test to the petitioner at the Armed Reserve, Madurai at 08:00am;

ii) It is made clear that if, for any reason, it comes to light at a later point of time that any person, including the petitioner, had succeeded in the selection process by giving false averments, then the selection of that candidate is deemed to have been declared as illegal and based on this order, they can be removed from the services at any time.

Sd/

Assistant Registrar(Crl Side)

/True copy/

Sub Assistant Registrar(CS-II)

To:

1. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Pantheon Road, Egmore,
Chennai-600 008.

2. The Member Secretary
Tamil Nadu Uniformed Services Recruitment Board,
Pantheon Road, Egmore,
Chennai-600 008.



3. The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

+1cc to Mr.D.SRINIVASA RAGAVAN, Advocate, SR.No.84971

W.P. (MD) No.19537 of 2018
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