

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2019

CORAM:

THE HONOURABLE MRS. JUSTICE V.PARTHIBAN

W.P.No.14321 of 2019

S.Saravanamani

.. Petitioner

Vs

1. The Principal Secretary,  
Government of Tamil Nadu,  
Home Department,  
Fort St. George, Secretariat,  
Chennai-600 009
  2. The Chairman,  
Tamil Nadu Uniformed Services Recruitment Board,  
Old Commissioner of Police Office Campus,  
Egmore, Chennai -8
  3. The Member Secretary,  
Tamil Nadu Uniformed Services Recruitment Board,  
Old Commissioner of Police Office Campus,  
Egmore, Chennai -8
  4. The Director General of Police,  
O/o.The Director General of Police,  
Tamil Nadu, Chennai-600 004.
  5. The Deputy Inspector General of Police(Technical Services),  
O/o. The Deputy Inspector General of Police,  
Chennai-600 004.
- .. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the 5<sup>th</sup> respondent relating to the impugned order passed in R.C.No.A3/12200/2018 dated 22.02.2019 and quash the same as illegal, arbitrary against the Art 14 & 21 of the Constitution of India, and directing the respondents to consider the candidature of the petitioner for appointment to the post of Sub-Inspector of Police(Technical) 2018.

For Petitioner : Mr.M.Jayapalrajan

For Respondents :Mr.V.Kathirvelu, Spl.G.P. for RR1 to 3

Ms.Narmadha Sampath, AAG  
assisted by Mr.J.Pothiraj, Spl.G.P. for  
RR4 & 5

#### ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus to call for the records of the 5<sup>th</sup> respondent relating to the impugned order passed in R.C.No.A3/12200/2018 dated 22.02.2019 and quash the same as illegal, arbitrary against the Articles 14 & 21 of the Constitution of India and consequently, direct the respondents to consider the candidature of the petitioner for appointment to the post of Sub-Inspector of Police(Technical) 2018.

2. A notification was issued by the second respondent on 11.07.2018, inviting candidates for appointment to the post of Sub-Inspector of Police (Technical) in Advertisement No.1 of 2018 and the total notified vacancies were 309. On 20.11.2018, the petitioner responded to the notification and passed the written examination. Thereafter, he received a call letter for psychical examination from the respondents. In December 2018, provisional select list was published by the respondents and the petitioner was one of the selected candidates. In January 2018, Medical Examination was conducted and the petitioner was found ineligible in view of his Eye power which was far below the standard prescribed for appointment to the post of Sub-Inspector of Police (Technical). Thereafter, the petitioner's case was reviewed in the Regional Institute of Ophamology and Government Ophthalmic Hospital, Egmore, Chennai and the Review Board has also confirmed the defective vision of the petitioner. According to the petitioner, he has thereafter undergone Lasik Treatment and rectified the vision defect.

3. While matter stood thus, vide order dated 22.02.2019, after Medical Review Examination, the fifth respondent had passed the order rejecting the candidature of the petitioner. The said order is put to challenge in the present writ petition.

4. According to the learned counsel for the petitioner, in similar circumstances, a batch of writ petitions were allowed by a learned Single Judge of this Court, vide order dated 30.04.2019 in WP (MD) Nos.5441, 5467, 5468, 5469, 6218, 6219, 4758 to 4760, 4929 to 4932, 6087 & 6008 of 2019 in the case of "M.Salai Gayathri Vs. the State of Tamil Nadu, rep by its secretary and 4 Others", wherein, the learned Single Judge has

ultimately held in paragraph no.17 of the said order, which reads as under:

17. In view of the foregoing reasons as well as taking into consideration the pitiable situation of the petitioners, whose candidatures were rejected due to lack of eye vision, which can be rectified owing to technology as-on-today, and they are functioning like any other person normally, this Court deems it fit to set aside the impugned orders, as it cannot be sustained in the eye of law. Accordingly, the impugned orders are set aside. The respondents are directed to consider the candidatures of the petitioners for appointment to the post of Sub-Inspector of Police (Technical) and (Finger Print) 2018, if they are otherwise found eligible.

5. The learned counsel would submit that according to the learned single Judge, although the Government Order in G.O.Ms.No.1221, Home(Police-9) Department, dated 10.11.2000 was passed in which certain conditions were prescribed for the police force, the said conditions were not incorporated in the notification issued calling for candidates and in such view of the matter, the candidates cannot be said to be disqualified in the absence of any such conditions prescribed in the notification. Therefore, the learned counsel would submit that the present writ petition is fully covered by the decision of the learned single Judge in the aforesaid batch of writ petitions.

6. At this, Ms.Narmadha Sampath, learned Additional Advocate General would submit that a crucial fact was not brought to the notice of the learned Judge a proviso to Rule 5(2) (ii) of the Adhoc Rules, by which differently abled persons are not eligible to be appointed to the posts. In paragraph nos.9 and 10 of the counter affidavit, Rule position has been referred to in detail and in view of the averments, the petitioner is not entitled to be considered for appointment. The averments contained in paragraph nos.9 and 10 of the counter affidavit, which is heavily relied on by the learned Additional Advocate General, is extracted hereunder:

9. It is submitted that the post of Sub-Inspector of Police(Technical) is a post borne on the cadre of the Tamil Nadu Police Subordinate Service governed by the special Rules for the Tamil Nadu Police Subordinate

Service, subject to Adhoc rules framed in G.O.Ms.No.873, Home (Pol.9) Department, dated 18.01.1999 read with G.O.Ms.No.53, Home (Pol.9) Department, dated 02.12.2016. According to fourth proviso to rule 5(2)(ii) of the Adhoc Rules, differently abled persons are not eligible for appointment to the post.

10.It is submitted that Annexure II referred to in Rule 14 of the Special Rules for the Tamil Nadu Police Subordinate Service prescribes as follows:

| Class and category                       | Age limit for appointment otherwise than by promotion                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Qualification |
|------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|
| An class and category-Direct Recruitment | <p>Must be certified to possess the visual standard specified below without glasses:</p> <p>Right Eye/Left eye</p> <p>(iii) Distant Vision 6/6 6/6<br/>Near Vision(Snellen) 0.5 0.5</p> <p>(iv) Each eye must have full field of vision</p> <p>(v) Colour blindness, squint or any morbid condition of the eyes shall be deemed to be a disqualification</p> <p>(vi) Lasic/Laser surgery/Excimer Laser Surgery underwent by the candidate in either of the eye shall be deemed to be a disqualification</p> |               |

7. The learned Additional Advocate General would submit that the above fact was not brought to the notice of the learned Single Judge when the orders were passed by the learned Judge sitting in Madurai Bench. In any event, the learned Additional Advocate General would submit that against the order passed by the learned Judge, appeals have been preferred before the Division Bench of this Court (Madurai Bench). In any event, she would submit that in view of the clear position as mentioned in the Rules, the petitioner is not entitled to any relief since the petitioner's defective vision dis-entitles him to be considered for appointment especially as Sub-Inspector of Police (Technical), in which finger prints have to be analysed and examined and the person suffering from vision defect, is not suitable for such appointment.

8. This Court is in complete agreement with the submissions of the learned Additional Advocate General. Although the learned Single Judge of this Court allowed a batch of writ petitions, has relied on by G.O.Ms.No.1221, Home(Police-9) Department, dated 10.11.2000, which according to him was not a part of the notification issued by the second respondent Board, yet as averred in the counter affidavit filed on behalf of the respondents, the conditions as prescribed in the Adhoc Rules/Special Rules are very clear on the said aspect. Once the Rules provided for dis-qualification of candidates from being considered for appointment on the basis of the vision defect, it does not fall within the domain of this Court to interfere in such matters, whether a person is fit for appointment or not, as it is entirely within the discretion of the Recruitment Board and the Government, and such discretion cannot be routinely trifled with unless such discretion has been exercised arbitrarily and unreasonably.

9. In this case, it is the matter of medical fitness of the candidate for selection to the subject post, which was assessed by the Medical Board and also reviewed by the duly constituted Medical Board. Even on such review, the petitioner was found to be unfit for the subject appointment, when an Expert Medical Board has given its opinion in regard to the in-eligibility of the petitioner, this Court cannot interfere with such professional finding and substitute its opinion in such matters when this Court does not have any expertise.

10. In view of the above, this Court is of the view that the petitioner is not entitled to be considered for appointment to the post of Sub-Inspector of Police(Technical) and therefore, this Court finds that this writ petition is without any merit and hence, the same is dismissed. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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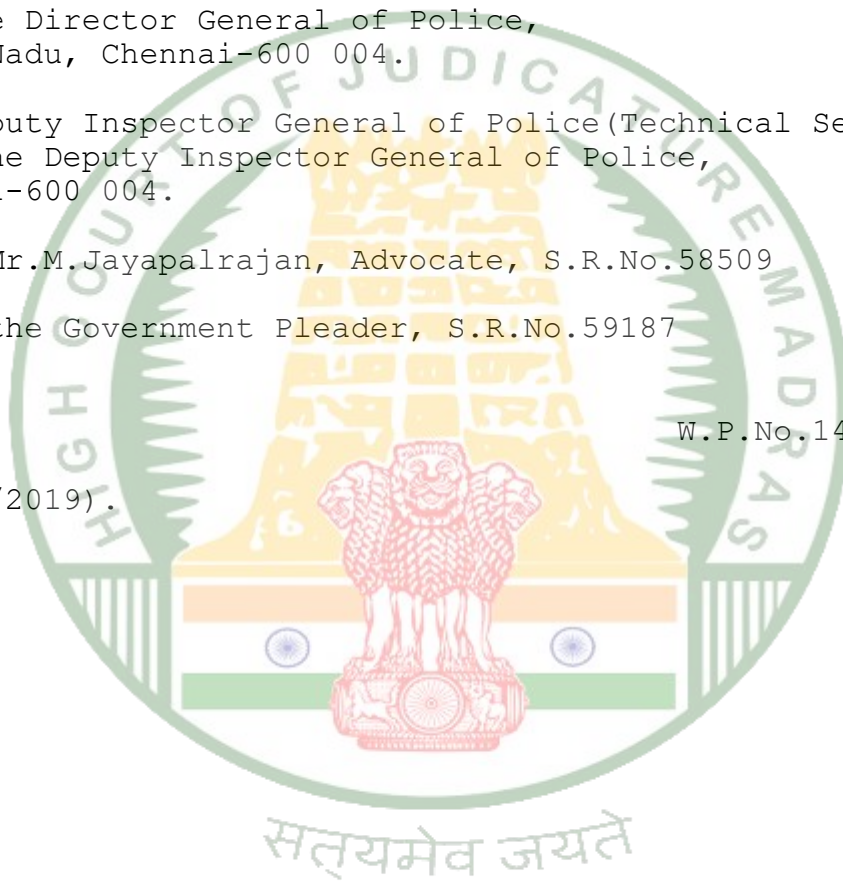
To

1. The Principal Secretary,  
Government of Tamil Nadu,  
Home Department,  
Fort St. George, Secretariat,  
Chennai-600 009

2. The Chairman,  
Tamil Nadu Uniformed Services Recruitment Board,  
Old Commissioner of Police Office Campus,  
Egmore, Chennai -8
  3. The Member Secretary,  
Tamil Nadu Uniformed Services Recruitment Board,  
Old Commissioner of Police Office Campus,  
Egmore, Chennai -8
  4. The Director General of Police,  
O/o.The Director General of Police,  
Tamil Nadu, Chennai-600 004.
  5. The Deputy Inspector General of Police(Technical Services),  
O/o. The Deputy Inspector General of Police,  
Chennai-600 004.
- +1 cc to Mr.M.Jayapalrajan, Advocate, S.R.No.58509
- +1 cc to the Government Pleader, S.R.No.59187

W.P.No.14321 of 2019

KK(CO)  
SSM(19/08/2019).



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