

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2019

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.29533 of 2019
& WMP.No.29404 of 2019

K.Lokesh

.. Petitioner

Vs.

Tamil Nadu Uniformed Services Recruitment Board,
rep. by its Chairman(DGP),
Old Commissioner of Police Campus,
Pantheon Road,
Egmore, Chennai-600 008

..Respondent

Petition filed under Article 226 of The Constitution of India praying for issuance of a Writ of Mandamus to direct the respondent to consider and dispose of the petitioner's representation dated 08.10.2019 within the time frame fixed by this Court and permit the petitioner to participate in the physical test conducted for the Common Recruitment 2019 for the post of Grade II-PC, Jail Warden, Firemen.

For Petitioner .. Mr.V.M. Venkataramana

For Respondent ... Mrs.Narmadha Sampath,
assisted by
Mr.V.Kadhirvelu, Spl.GP

ORDER

This writ petition has been filed seeking for issuance of a Mandamus to direct the respondent to consider and dispose of the petitioner's representation dated 08.10.2019 within the time frame fixed by this Court and permit the petitioner to participate in the physical test conducted for the Common Recruitment 2019 for the post of Grade II-PC, Jail Warden, Firemen.

2.According to the petitioner, he applied for Common Recruitment 2019, for the post of Grade II-PC, Jail Warden, Firemen through On-Line and he was also assigned Enrollment

No.0610488. Thereafter, the petitioner appeared for written examination. Later, the petitioner came to know his candidature was rejected on the ground that SSLC Pass Proof certificate not available/not clear/other person certificates. It appears that though the Recruitment Board sent E.Mail to submit his certificate, since there was no Internet facility, the petitioner could not respond to the E.Mail. On 08.10.2019, the petitioner made a representation to the respondent to consider his candidature for the post and permit him to appear for Physical Test which is scheduled to be held on 01.11.2019 and also for Certificate verification. Since no response is forthcoming from the respondent, the petitioner has come forward with the present writ petition.

3.The learned counsel appearing for the petitioner would submit that originally the petitioner has possessed the required qualification i.e., 10th Standard for the subject post to which he applied however, due to technical problem he could not properly up-load the SSLC Certificate and thereby his application came to be rejected, which cannot be sustained. He would also submit that due to this simple defect which can be rectified at the time of certificate verification, the petitioner lost valuable right of getting an appointment in public service, particularly in Police Department for which the petitioner has been aspiring much for so many years and finally he got a chance to participate in the selection. The learned counsel would also submit that though the recruitment Board sent a communication through E.Mail to the petitioner instructing him to send SSLC Certificate, but the petitioner is not having Internet facility, he was unable to respond to the said communication in time. Therefore, the learned counsel would implore this Court to direct the respondents to consider the representation of the petitioner and permit him to appear for next stage of selection based on his marks obtained in the written test.

4. On the other hand, the learned Additional Advocate General appearing for the respondent would strongly object to the grant of any relief as prayed for the petitioner for the simple reason that in the notification it has been clearly mentioned that all the required certificates need to be up-loaded through On-line and any certificate produced at later stage will not be entertained. She would point out that admittedly the petitioner has not up-loaded his SSLC Certificate as a proof to pass in 10th Standard and therefore, his application was rejected by the Board, which cannot be interfered with. She would also submit that if the petitioner's case is allowed, it will open a pandora box wherein similar claims which were rejected, would be flooding the Recruitment Board seeking review of their rejections as well. In any event,

once the instructions are clear and unambiguous issued by the Recruitment Board, the same need to be scrupulously followed by all the candidates and there cannot be any deviation from the instructions to any single candidate. Therefore, she would request this Court not to entertain the present Writ Petition at all.

5. Heard, the learned counsel appearing for the petitioner and learned Additional Advocate General appearing for the respondents and perused the entire materials available on record.

6. It is not in dispute that the petitioner is qualified and eligible for the subject post since having possessed required qualification i.e, 10th Standard. The only drawback is that the petitioner due to lack of sufficient knowledge in uploading the SSLC Certificate, he could not successfully upload the same, which unfortunately rendered in rejection of his application. Though the Recruitment Board has sent a communication through E.Mail to the petitioner instructing him to send necessary SSLC certificate, but the petitioner could not respond to the same in time since he was not having Internet facility. Therefore, in the peculiar circumstances, this Court is of the view that the petitioner's case can be considered since admittedly the petitioner is possessing required qualification even on the date of applying for the post him. Though the contentions raised by the learned Additional Additional General are convincing in nature, this Court does not think that merely on the ground of technical lapses in uploading the certificates, the petitioner cannot be turned away from this Court from imparting justice to him after all being a writ Court, this Court shall consider and grant the relief not only on the basis of legal principle but on the basis of equity, fair play and good conscious. Even there is infraction which could be noticed on the part of the petitioner in uploading the certificate, such infraction ought to be condoned while applying the large principle of equity. Therefore, in such circumstances, this Court is of the considered view that the petitioner is entitled to the relief as sought for.

7. For the foregoing reasons, the petitioner is directed to appear in person before the respondent and produce his SSLC mark sheets within a period of 10 days from the date of receipt of a copy of this order. On such production and if the petitioner is found qualified for next selection based on his marks in the written test, the respondent is directed to permit the petitioner to appear for Physical Test for common recruitment of Grade II Police Constable, Gr-II Jail Warder and Fireman, 2019, which was scheduled to be held on 01.11.2019.

8.With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)

//True copy//

Sub Assistant Registrar

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To

The Chairman(DGP),
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Campus,
Pantheon Road,
Egmore, Chennai-600 008

+1cc to Mr.V.M. Venkataramana, Advocate SR.No.8662

+1cc to Government Pleader SR.No.87372

W.P.No.29533 of 2019

GMV (12/11/2019)



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