

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2019

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.29573 & 29577 of 2019
& WMP.Nos.29453 & 29455 of 2019

V.Dineshkumar
S.Ajithkumar

..Petitioner in WP.No.29573 of 2019
..Petitioner in WP.No.29577 of 2019

Vs.

- 1.The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Campus, Pantheon Road,
Egmore, Chennai-600 008
- 2.The Member,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Campus, Pantheon Road,
Egmore, Chennai-600 008
- 3.The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Campus, Pantheon Road,
Egmore, Chennai-600 008 ..Respondents in both WPs.

Petitions filed under Article 226 of The Constitution of India praying for

(i)issuance of a Writ of Mandamus to direct the respondents 1 to 3 to include the petitioner namely V.Dineshkumar, Enrollment No.0611779 in the Provisional Selection List for Physical Measurement Test/Endurance Test/Physical Efficiency Test for common recruitment of Grade II Police Constable, Gr-II Jail Warder and Fireman, 2019 (prayer in WP.No.29573 of 2019).

(ii)issuance of a Writ of Mandamus to direct the respondents 1 to 3 to include the petitioner namely S.Ajithkumar, Enrollment No.0612554 in the Provisional Selection List for Physical Measurement Test/Endurance Test/Physical Efficiency Test for common recruitment of Grade II Police Constable, Gr-II Jail Warder and Fireman, 2019 (prayer in WP.No.29577 of 2019).

For Petitioner .. Mr.J.Prakasam(in both WPs)

For Respondents .. M/s.Narmadha Sampath,
 assisted by
 Mr.V.Kadhirvelu, Spl.GP
 (in both WPs)

COMMON ORDER

These writ petitions have been filed seeking for issuance of a Mandamus to direct the respondents 1 to 3 to include the petitioners namely S.Ajithkumar and V.Dineshkumar(Enrollment Nos.0612554 & 0611779) in the Provisional Selection List for Physical Measurement Test/Endurance Test/Physical Efficiency Test for common recruitment of Grade II Police Constable, Gr-II Jail Warder and Fireman, 2019.

2.Pursuant to the notification dated 06.03.2013 issued by the third respondent, for recruitment to the posts of Grade II Police Constable, Grade II Jail Warder and Fireman, the petitioners have applied for the above said posts through On-Line at the Web-Site of the respondents, i.e., www.tn.usrbonline.org and uploaded all the required testimonials pertaining to educational qualification and cast certificate and NCC Certificate etc. The petitioners are belonging to MBC Category. Thereafter, the petitioners were permitted for the written test and they have also participated. While they were in anticipation of the result of the written test, to their shock and surprise their names were not found in the list of provisional selection list published by the recruitment Board. Later the petitioners came to know that their applications were rejected on the ground that 'SSLC Pass Proof Certificate not available/not clear/other person certificates'. According to the petitioners, though they have not passed the 10th Standard at the first attempt later they cleared one subject, in which they failed and thereby they could not up-load 10th Standard Mark Sheets at a time since there is provision to upload the 10th Standard Mark Sheet at one time only, whereas the petitioners were having two mark sheets since they passed arrear of subject at later stage. But, according to the petitioners, at the time of applying for the post, they are qualified having possessed required qualification i.e., 10th standard. Therefore, the petitioners made representations on 09.10.2019 to the respondents to consider their case and permit them to appear for next stage of selection i.e., Physical Measurement Test/Endurance Test/Physical Efficiency Test after releasing the marks obtained by them. Since no response is forthcoming from the respondents, the petitioners are before this Court.

3. The learned counsel appearing for the petitioners would submit that originally the petitioners have possessed the required qualification i.e., 10th Standard for the subject post to which they applied however, due to technical problem they could not up-load the 10th standard mark sheets at a time and thereby their applications 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 petitioners lost valuable right of earning an appointment in public service, particularly in Police Department for which the petitioners have been aspiring much for so many years and finally got a chance to participate in the selection. The learned counsel would also submit that though the recruitment Board sent a communication on 31.08.2019 through E.Mail to the petitioners instructing them to send necessary 10th standard mark sheets on or before 05.09.2019, but the petitioners hail from poor families and not having facilities like Computer or Smart Phones to check E.Mails regularly, they were unable to respond to the said communication in time. Therefore, the learned counsel would implore this Court to direct the respondents to consider the case of the petitioners and permit them to appear for next stage of selection based on their marks obtained in the written test.

4. On the other hand, the learned Additional Advocate General appearing for the respondents would strongly object to the grant of any relief as prayed for the petitioners 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 petitioners are not up-loaded their 10th standard mark lists as a proof to pass in 10th Standard and therefore, their applications were rejected by the Board, which cannot be interfered with. She would also submit that if the petitioners' 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 Petitions at all.

5. Heard, the learned counsel appearing for the petitioners 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 petitioners are qualified and eligible for the subject post since having possessed required qualification i.e., 10th Standard. The only drawback is that the petitioners due to lack of sufficient knowledge in uploading the mark sheets, they could not successfully upload the mark sheets, which unfortunately rendered in rejection of their applications. Though the recruitment Board has sent a communication on 31.08.2019 through E.Mail to the petitioners instructing them to send necessary 10th standard mark sheets on or before 05.09.2019, but the petitioners could not respond the same in time since they were not aware of the said communication till 04.10.2019, as submitted by the learned counsel for the petitioners that just because they hail from poor families and not having Computer or Smart Phones to check E.Mails regularly. Therefore, in the peculiar circumstances, this Court is of the view that the petitioners case can be considered since admittedly the petitioners are possessing required qualification even on the date of applying for the posts by the petitioners. 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 petitioners cannot be turned away from the Court from imparting justice to them 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 petitioners in uploading the certificates, 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 petitioners are entitled to the relief as sought for.

7. For the foregoing reasons, the petitioners are directed to appear in person before the respondents 1 to 3 and produce their SSLC mark sheets within a period of two weeks from the date of receipt of a copy of this order. On such production and if the petitioners are found qualified for next selection based on their marks in the written test, the respondents 1 to 3 are directed to include the names of the petitioners in the Provisional Selection List for Physical Measurement Test/Endurance Test/Physical Efficiency Test for common recruitment of Grade II Police Constable, Gr-II Jail Warder and Fireman, 2019.

8. With the above direction, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Campus, Pantheon Road,
Egmore, Chennai-600 008
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Old Commissioner of Police Campus, Pantheon Road,
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3. The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Campus, Pantheon Road,
Egmore, Chennai-600 008

+2cc to M/s.J.Prakasam, Advocate SR.Nos.86241 & 86242
+1 cc to The Government Pleader Sr.No. 87361

AKM/11.12.19/5P- 7C /

सत्यमेव जयते

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