

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P NO.34112 OF 2019
AND W.M.P.NO.34717 OF 2019

T.M.Raja

... Petitioner

vs.

1. The Member Secreatary,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Campus,
Pantheon Road, Egmore,
Chennai - 600 008.
2. The Chairman / Sub-Committee,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Campus,
Pantheon Road, Egmore,
Chennai - 600 008.
3. The Superintendent of Police,
Thiruvallur,
Thiruvallur District.

.... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of certiorarified Mandamus, directing the 2nd respondent to call for the records bearing C No R2/850/2019 dated 06.11.2019 Enrollment No.0206060 and quash the same and direct the respondent to conduct the physical endurance test i.e., chest measurement test for the petitioner in a fair manner for the recruitment of Grade II Police Constables Men and Women and Transgener, Grade II Jail Warden (Men and Women) and Fireman (Men) for the year 2019.

For Petitioner : Mr.L.Dhamodharan

For Respondents: Mrs.Narmatha Sampath
Additional Advocate General assist by

Mr.V.Kadhirvel
Special Government Pleader

ORDER

This writ petition has been filed challenging the rejection of the petitioner in the selection to the post of Grade-II Police Constable on the ground that during the physical endurance test, the petitioner did not satisfy the chest measurement requirement. According to the notification, the chest measurement was fixed in the normal position at 81 Cms and 86 Cms during expansion. The petitioner did not fulfill this requirement and therefore the candidature was rejected.

2.The learned counsel for the petitioner submitted that the normal chest measurement of the petitioner is 83 Cms and on expansion it is 88 Cms and therefore, the petitioner satisfies the requirement given under the notification.

3.Mrs.Narmatha Sampath, learned Additional Advocate General submitted that a writ petition of this nature cannot be entertained by this Court and already this issue is covered by the earlier Division Bench order of this Court in W.P.No.28451 of 2015 dated 10.09.2015.

4.This Court has carefully considered the submissions made on either side and also the materials available on record.

5.It will be relevant to place reliance on the judgment that has been cited by the learned Additional Advocate General. The relevant portions are extracted hereunder:

The petitioner in this case, while seeking appointment to the post of Sub Inspector in pursuance to the Notification dated 08.02.2015, went through the written test and qualified to be able to participate in the physical endurance test. One of the norms was of height. In the physical endurance test, which was carried out on 03.08.2015, the normal chest size was 89.7 cm. And the expanded chest size was 92.2 cm. And thus, the differential figure of 5 cm., as required was not met. The petitioner assails the measurements.

2.This Court cannot sit as a Court of appeal over the measurements taken. However, as there were only a limited number of such petitions filed before us and the fact that in Writ Petition No.24750 of 2015, the claim of the petitioner was that his normal chest measurement was 83 cm., while in the physical endurance test, it was recorded as 90 cs., the measurement taken was stated to be obviously incorrect, we were persuaded to get the measurements done through the process of the qualified personnel of

the respondents before the Registrar (Vigilance) in the morning today. The allegation in Writ Petition No.24750 of 2015 were found to be baseless.

6.It will also be relevant to extract the portions of the order that was passed by this Court very recently in W.P.Nos.33661 & 33787 of 2019.

11. At this juncture, it will be useful to refer to the judgment of the Hon'ble Division Bench that was cited by the learned Additional Advocate General. This Court in [M.Govindammal Vs. The Chairman, Tamil Nadu Unfiromed Services Recruitment Board, Chennai and another] in W.A(MD) No.1265 of 2017 dated 28.03.2019, while considering a very similar issue, has held as follows :-

3. Learned counsel appearing on behalf of the respondents had drawn our attention to paragraph 7 of the affidavit fled by the appellant /petitioner in support of the writ petition, where she stated that her height was 158 cms. However, in paragraph 5 of the same affidavit, it is stated " I submit that during Physical Measurement Test, the 2nd respondent measured my actual Height measurement as 159 cm. While the respondent has taken the measurement in my height, it was 158. So I was rejected for the further measurement. "Possibly, because English is not the mother tongue, grammatical errors have crept into the affidavit which made the affidavit somewhat incomprehensible. What she possibly meant was that her height was found upon physical measurement to be 159 cms, but her height was recorded as 158 cms.

4. The learned Single Bench rejected the writ petition, and perhaps rightly, observing that the petitioner / appellant had admitted that her height was 158 cms.The Writ Court was unable to find any infirmity in the rejection of her candidature. Ordinarily, the Division Bench does not interfere in Appeal with an order that has otherwise rightly been passed. It is not for the Writ Court to go into the factual disputes as to whether the height of a candidate has correctly been recorded or not.

5. We have noted that there is no averment in the writ petition and/ or the memorandum of appeal making any suggestion of any possible reason to deliberately disqualify the petitioner by recording a lesser height. It is not for the Writ Court to sit in appeal over measurement of height, width of the Chest etc., take at the time of measurement test. The issues raised in the writ petition involve hotly disputed questions of fact.

12. The above judgment of the Hon'ble Division Bench will also squarely apply to the facts of the present case. That apart, 22 writ petitions which were filed seeking for similar relief was dismissed by another learned Single Judge. Therefore, it is important to maintain some consistency in this issue and by entertaining a writ petition of this nature, it will only open floodgates. This Court has to repose confidence in the recruitment process carried out by the Tamil Nadu Uniformed Service Recruitment Board, more particularly, when the process itself provides for certain checks and balances.

7. In view of the above, the relief as sought for by the petitioner cannot be granted by this Court and this Court is not inclined to entertain this writ petition. Accordingly, this writ petition stands dismissed. Consequently, connected miscellaneous petition is closed. No Costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ssr

To

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

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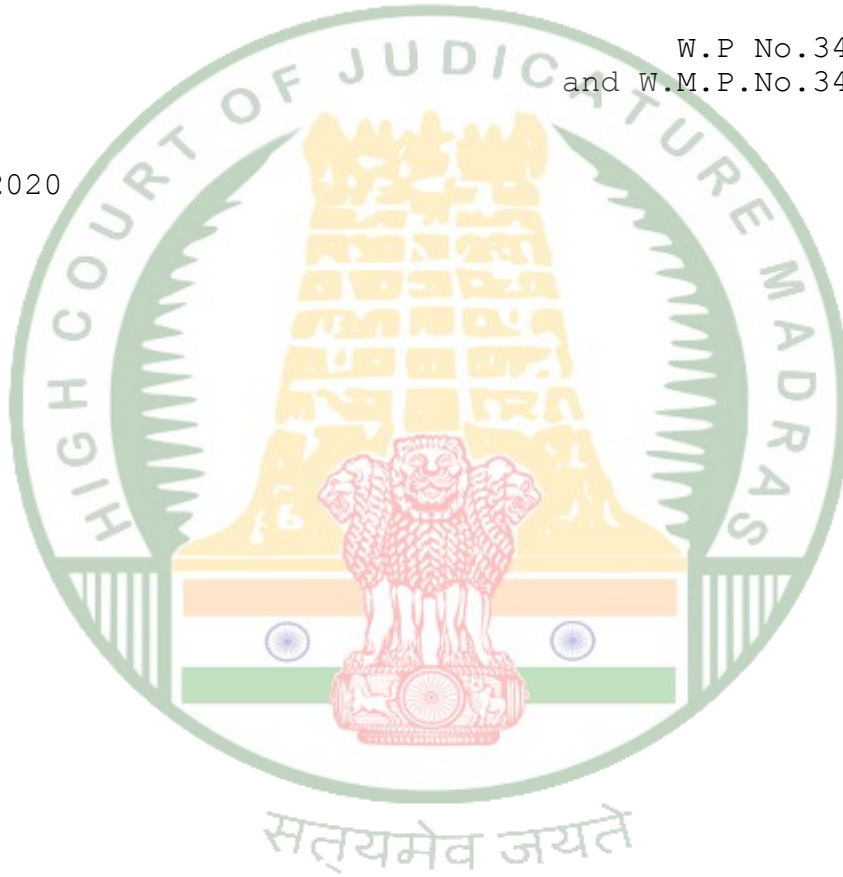
2. The Chairman / Sub-Committee,
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Old Commissioner of Police Campus,
Pantheon Road, Egmore,
Chennai - 600 008.

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

+lcc to Mr.L.Dhamodharan, Advocate, S.R.No.102425
+lcc to the Government Pleader, S.R.No.102502

W.P No.34112 of 2019
and W.M.P.No.34717 of 2019

VBA(CO)
CS/08/01/2020



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