

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2019

CORAM

THE HONOURABLE JUSTICE MR.N.ANAND VENKATESH

WP No.34435 of 2019
and
W.M.P.No. 35108 of 2019

E.V.Gopi

... Petitioner

Vs.

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

2.The Chairman/ Sub Committee,
Tamil Nadu Uniformed Services
Recruitment Board, Pantheon Road,
Egmore, Chennai 8.

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

...Respondents

PRAYER: Writ petition has been filed under Article 226 of the Constitution of India prays to issue a Writ of certiorarified Mandamus to call for the records of the second respondent bearing C.No.R2/850/2019 dated 06.11.2019 Enrollment No.0202264 and quash the same and direct the Second Respondent to conduct the physical fitness test for the petitioner in a fair manner for the recruitment of Grade - II Police Constables Men and Women and Transgender, Grade - II Jail Warden (Men and Women) and Fireman (Men) for the year 2019.

For Petitioner : Mr.L.Dhamodharan

For Respondents: Mr.V.Kadhirvel for R1 & R2
Mr.P.S.Siva Shanmuga Sundaram
Special Government Pleader for R3

O R D E R

The issue that has been raised in this writ petition pertains to the rejection of the candidature of the petitioner, on the ground that he did not qualify the height requirement that was prescribed for the selection to the post of Police Constable Grade II, Grade II Jail Warders and Firemen.

2. The petitioner had submitted his application for the post of Police Constable Grade II, Grade II Jail Warders and Firemen. The recruitment process consists of written examination, Physical Measurement Test, Endurance Test and Physical Efficiency Test. The minimum height that was prescribed for the candidate belonging to the General Category was 170 cms and for the candidates belonging to SC/ST category, it was 167 cms. The petitioner had participated in the BC category and he had also successfully passed out in the written examination. When he was called for Physical Measurement Test, his height was found to be 169 cms and therefore, his candidature was rejected, since he did not fulfill the minimum height requirement.

3. The learned counsel appearing for the petitioner submitted that the petitioner possess the minimum height requirement and he has been illegally disqualified by showing his height just 1 cm below the minimum requirement. Therefore, the illegality committed on the part of the recruitment board is apparent.

4. The learned counsel appearing on behalf of the petitioner submitted that the height of the petitioner can be independently assessed by this Court and an opportunity should be given to the petitioner to prove his case and to participate in the further process of selection.

5. The learned Special Government Pleader appearing on behalf of the respondents 1 & 2 submitted that the relief sought for by the petitioner is totally unsustainable. The learned counsel submitted that in the Physical Measurement Test, whenever a candidate is disqualified by the selection team, an appeal is provided to the Chairman of the Sub-committee and the entire physical measurement is again carried out. Therefore, the learned counsel submitted that there is a lot of transparency in the entire process and there is no reason for the recruitment board to discriminate among the participants.

6. The learned Special Government Pleader further submitted that if such writ petitions are entertained, it will open the

floodgates and every person will come before this Court and seek for reviewing the measurement already done and there will be no end to this process. The learned Government Pleader also brought to the notice of this Court that twenty two writ petitions which were filed on the very same grounds, were dismissed by this Court and this writ petition also pertained to the present selection.

7. The learned Special Government Pleader in order to substantiate his submissions, brought to the notice of this Court the judgment of the Hon'ble Division Bench in W.A.No.1265 of 2017 dated 28.03.2018.

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

9. The only issue that requires consideration by this Court is as to whether any direction can be given to again subject the petitioner to physical measurement test and reverify his height. The entire process of selection in the Physical Measurement Test was explained by the learned Special Government Pleader. It was brought to the notice of this Court that the process of selection is also being video graphed. In order to bring transparency and in order to maintain a check and balance, in every case where a candidate is disqualified by the committee, an Appeal is provided to a committee consisting of higher level police officers. When an Appeal is made, the physical measurement test is again conducted.

10. 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.

11. 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.

12. In the result, this Court is not inclined to entertain this writ petition and accordingly, the writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is also closed.

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Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

kkn

To

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

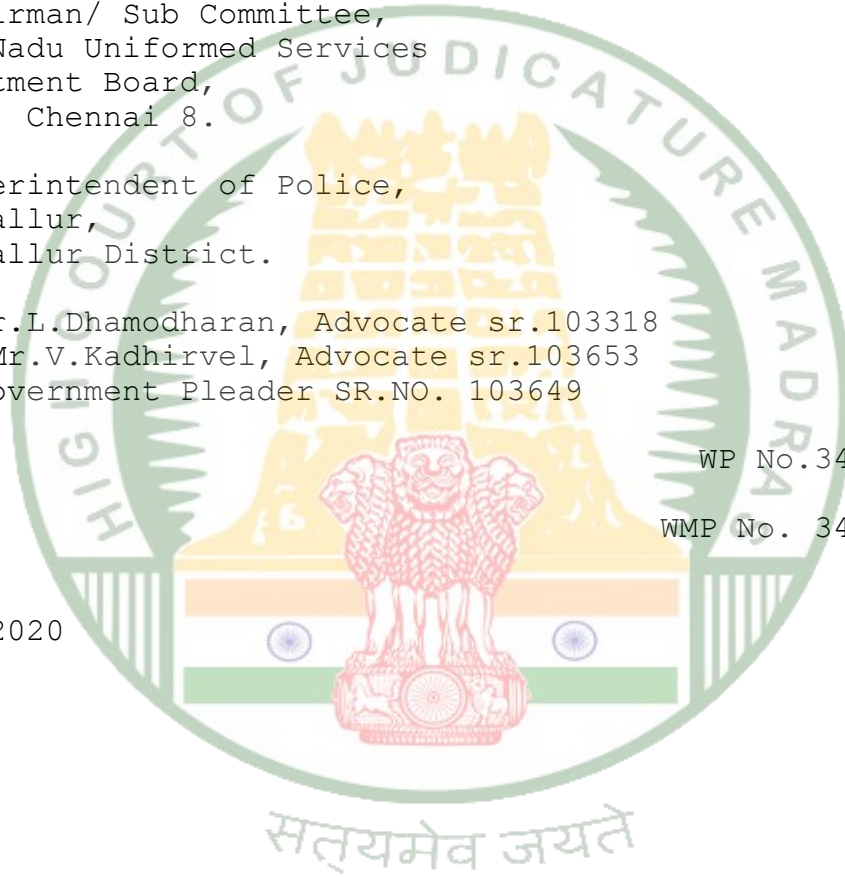
2.The Chairman/ Sub Committee,
Tamil Nadu Uniformed Services
Recruitment Board,
Egmore, Chennai 8.

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

+1cc to Mr.L.Dhamodharan, Advocate sr.103318
+1cc to Mr.V.Kadhirvel, Advocate sr.103653
+1cc to Government Pleader SR.NO. 103649

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