

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON 03.12.2019

PRONOUNCING ORDERS ON 05.12.2019
CORAM

THE HONOURABLE JUSTICE MR.N.ANAND VENKATESH

WP Nos.33661 & 33787 of 2019 and
WMP No.34124 of 2019
in WP No.33661 of 2019

A.AnbalaganPetitioner in WP No.33661 of 2019
Mr.C.ManikandanPetitioner in WP No.33787 of 2019

Vs.

- 1.The Secretary to Government,
Home Department,
Fort St. George,
Chennai 600 009.
 2. The Chairman,
Tamil Nadu Uniformed Service Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore, Chennai - 8.
 3. The Director General of Police,
Radhakrishnan Salai,
Mylapore, Chennai 600 004.
 4. The Chairman,
Sub-Committee,
Dharmapuri Centre,
Dharmapuri.
 5. The Assistant Deputy Superintendent of Police,
Dharmapuri, Dharmapuri District
..Respondents in WP No.33661 of 2019
-
1. Tamil Nadu Uniformed Services Recruitment Board,
Represented by its Chairman,
Old Commissioner of Police Office Campus,
Pantheon Road,
Egmore, Chennai - 600 008.
 2. Tamil Nadu Uniformed Services Recruitment Board,
Represented by its Member Secretary,
Old Commissioner of Police Office Campus,
Pantheon Road,
Egmore, Chennai 600 008.

3. The Chairman,
Sub Committee & Deputy Inspector General of Police,
Villupuram Range,
Villupuram, Villupuram Centre.

...Respondents in WP.No.33787 of 2019

Prayer in WP No.33661 of 2019: Writ petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of certiorarified Mandamus to call for the records of the fourth and fifth respondent dated 08.11.2019, proceeding C.No.R2/850/2019. with regard to disqualification of his application and quash the same and direct the respondents to treat him as qualified in all remaining selection procedures with full marks and further direct the respondents to select and appoint him as Police Constable Grade-II under MBC open men category and to fix appropriate place of Seniority in the Taluk Police selection by granting all consequential service and monetary benefits.

Prayer in WP No.33787 of 2019: Writ petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of certiorarified Mandamus to call for the records pertaining to the proceedings of the 3rd respondent vide C.No.R2/850/2019 dated 18.11.2019 and quash the same and consequently, to direct the 3rd respondent to permit the petitioner to remaining physical Endurance Test and Physical Efficiency Test.

For Petitioner : Mr.S.Angamuthu
in WP No.33661 of 2019 Mr.B.Siva
For Petitioner : Mr.S.Sivaguru
in WP No.33787 of 2019

For Respondents : Mrs.Narmatha Sampath
in WP No.33661 of 2019 Additional Advocate General
Assisted by V.Kadhirvelu
Special Government Pleader

for R1
Mr.P.S.Sivashanmuga Sundaram
Special Government Pleader
for R2 to R5

For Respondents : Mrs.Narmatha Sampath
in WP No.33787 of 2019 Additional Advocate General
Assisted by
Mr.P.S.Sivashanmuga Sundaram
Special Government Pleader
for respondents

COMMON ORDER

The common issue that has been raised in both these writ petitions pertains to the rejection of the candidature of both the petitioners, on the ground that they 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 in WP No.33661 of 2019 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 General 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 petitioner in WP No.33787 of 2019, 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 candidates 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 SC/ST 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 166 cms and therefore, his candidature was rejected, since he did not fulfill the minimum height requirement.

4. The learned counsel appearing for the respective petitioners submitted that the petitioners possess the minimum height requirement and they have been illegally disqualified by showing their height just 1 cm below the minimum requirement. The learned counsel appearing for the petitioner in WP No.33661 of 2019, submitted that the petitioner had participated in the earlier recruitment in the year 2017-2018 and he was allowed to participate in all the tests and he was not disqualified under the height requirement. The petitioner was not selected, since he did not score the required cut off mark calculated on the whole. The learned counsel submitted that the height of the petitioner cannot get reduced by 1 cm in the present selection and therefore, the illegality committed on the part of the recruitment board is apparent.

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

6. Mrs.Narmatha Sampath, learned Additional Advocate General appearing on behalf of the respondents submitted that the relief sought for by the petitioners 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.

7. The learned Additional Advocate General 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 Additional Advocate General 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 these writ petitions also pertained to the present selection.

8. The learned Additional Advocate General in order to substantiate her submissions, brought to the notice of this Court the judgment of the Division Bench in W.A.No.1265 of 2017 dated 28.03.2018.

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

10. The only issue that requires consideration by this Court is as to whether any direction can be given to again subject the petitioners to physical measurement test and reverify their height. The entire process of selection in the Physical Measurement Test was explained by the learned Additional Advocate General. 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. In the case of the writ petitioner in WP No.33661 of 2019, the height of the petitioner was confirmed in the Appeal and it was found to be 169 cms. The same is the case with the petitioner in WP No.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 filed 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.

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

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
Home Department,
Fort St. George,
Chennai 600 009.
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Tamil Nadu Uniformed Service Recruitment
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- 6.The Member Secretary,
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Old Commissioner of Police Office Campus,
Pantheon Road,
Egmore, Chennai 600 008.
7. The Chairman,
Sub Committee & Deputy Inspector General of Police,
Villupuram Range, Villupuram, Villupuram Centre.

+1cc to Mr.S.Angamuthu , Advocate SR.No. 101697

+1 cc to Government Pleader Sr.No. 102518,102517

WP Nos.33661 & 33787 of 2019 and

WMP No.34124 of 2019

in WP No.33661 of 2019

A.SK(31/01/2020)

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