

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P NO.34137 OF 2019

AND

W.M.P NO.34752 OF 2019

R.Suseela

Petitioner

vs.

1. Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai - 600 008, rep. by its
Member Secretary
2. The Director General of Police,
Tamil Nadu,
Chennai - 600 004.
3. The Superintendent of Police,
Kancheepuram District,
Kancheepuram.

Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 1 and 2 to pass appropriate orders within a limited time frame, with regard to her selection as Women Police Constable Grade II (Enrollment No.5301377) by considering the representation dated 20.11.2019 of the petitioner.

For Petitioner : Mr.G.Punniakoti

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

Mr.V.Kadhirvel
Special Government Pleader for R1

Mr.V.Prabhu
Government Advocate for R2 and R3

ORDER

This writ petition has been filed challenging the rejection of the petitioner on the ground that the petitioner failed in the physical efficiency test by not reaching the timing that was fixed for 200 Meters run.

2.The petitioner had participated in the selection to the post of Women Police Constable Grade II. The petitioner had participated in the physical efficiency test and for the 200 Meters running, the time that has been fixed by the notification for 200 Meters for Women is 38.0 sec for 1 Star and 33.0 sec for 2 Star. The petitioner had completed the event in 40.16 sec. Therefore, the petitioner was not found eligible in the physical efficiency test. The learned counsel for the petitioner submitted that the petitioner had appeared for the physical efficiency test at the appointed time and she was made to wait for nearly six hours and by mistake she was not called on time for the 200 Meters test. Therefore, the petitioner became tired and she was not able to achieve the timing that was fixed by the notification. Therefore, if one more chance is given to the petitioner, she will be able to achieve the timing and consequently she will be able to participate in the selection.

3.Mrs.Narmatha Sampath, learned Additional Advocate General submitted that failure to achieve the norms fixed by the notification is final and the same cannot be modified by giving one more opportunity to the candidates. The learned counsel submitted that if such claims are entertained by this Court, it will open floodgates and every candidate will come up before this Court seeking for a similar relief.

4.The learned Additional Advocate General in order to substantiate her submissions relied upon the Hon'ble Division Bench order of this Court in W.P.No.26086 of 2015 dated 09.09.2015. In the said order, the Hon'ble Division Bench refused to entertain the writ petition since it felt that it goes beyond the scope of writ petition under Article 226 of the Constitution of India.

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

6.The grievance that has been addressed by the petitioner cannot be considered by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India. This Court had an occasion to consider a earlier plea and the relevant portions of the earlier order in W.P.Nos.33661 & 33787 of 2019 is extracted hereunder:

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 Unfiomed 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.

7. In view of the above, 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 Office Campus,
Pantheon Road, Egmore, Chennai - 600 008.
2. The Director General of Police,
Tamil Nadu, Chennai - 600 004.
3. The Superintendent of Police,
Kancheepuram District, Kancheepuram.

+1cc to Mr.G.Punniakoti, Advocate, S.R.No.102107
+1cc to the Government Pleader, S.R.No.102921

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VBA(CO)
CS/08/01/2020