

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2019

CORAM :

The Hon'ble Mr.A.P.SAHI, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SUBRAMONIUM PRASAD

W.A.No.4245 of 2019
and C.M.P.No.26472 of 2019

- 1.The Chairman,
Tamil Nadu Uniformed Services
Recruitment Board, Old COP Office
Campus, Pantheon Road, Egmore,
Chennai 600 008.
- 2.State of Tamil Nadu,
Rep. by its Secretary,
Dept. of Social Welfare, Secretariat,
Fort St. George, Chennai 600 009.
- 3.State of Tamil Nadu,
Rep. by its Secretary,
Dept. of Labour and Employment,
Secretariat, Fort St. George,
Chennai 600 009. ... Appellants

-vs-

Deepika ... Respondent

Appeal filed under Clause 15 of the Letters Patent against the order dated 03.12.2019 passed in W.M.P.No.31275 of 2019 in W.P.No.15911 of 2019 on the file of this Court.

Prayer in WMP No.31275 of 2019:

It is prayed that pending the hearing and final disposal of the Writ Petition to direct the Respondent No.1 and permit the Petitioner to participate in the Physical Measurement Test Endurance Test and Physical Efficiency Test (PMT ET and PET) for the post of Grade II Police Constable (AR) which is scheduled to be held from 06.11.2019.

Prayer in W.P.No.15911 of 2019:

Writ Petition filed to accept the application of the Petitioner for the Post of Grade II Police Constable (AR) under Notification No.1/2019 dated 06/03/2019 and allow the Petitioner to appear for the Written examination that is to be conducted by the Respondent No.1 for the said Post.

For Appellants : Mr.P.H.Aravindh Pandian
Addl. Adv. General,
assisted by Mr.V.Kadhirvelu,
Spl.G.P. (Edn.)

For Respondent : M/s.Shloka Narayanan

JUDGMENT

(Delivered by The Hon'ble Chief Justice)

Heard learned counsel for the appellant.

2.This appeal has been presented by the learned Additional Advocate General contending that the operative part of the order dated 03.12.2019 passed by the learned Single Judge as an interim measure calling upon the appellant/State to either hold the physical examination test of the respondent petitioner or else face a total stay of the selection proceedings is not warranted on the facts of the present case. The limited prayer, therefore, made before this Court is to modify the said order passed by the learned Single Judge or else the entire process of selection would be withheld.

3.The issue presently involved and debated in this appeal relates to the physical examination test being held by the Tamil Nadu Uniformed Service Recruitment Board for the post of Grade II Constables. The respondent petitioner and a couple of more such transgender candidates, who had appeared in the examinations have obtained marks, which, according to the appellant, is below the cut-off mark of 38, as fixed for the said category. The respondent petitioner and others filed writ petitions assailing the aforesaid criteria on the ground that the writ petitioners require a similar benefit to be extended to them, as is available to destitute women, thereby granting the relaxation in the cap of the cut-off mark that has been fixed creating a bar in further competing in the said examinations by appearing in the physical test.

4.A learned Single Judge granted interim orders and later on, by way of an amendment, this issue was raised, whereafter the impugned order on 03.12.2019 came to be passed directing the appellant to implement the same or else face the stay of the entire selection process.

5.Learned Additional Advocate General has placed before us a chart indicating that the physical examination test at all the 15 centres have ultimately been concluded, the last being held on 04.12.2019 at Villupuram.

6.The position that emerges is that the physical examination test can still be held in the event the writ petitioners succeed finally in the writ petitions, where they are seeking relaxation in the cap fixed as the qualifying cut-off marks for the category to which they belong. This decision has to be finally arrived at by the learned Single Judge on the basis of rival contentions of the parties as to whether any reduction as prayed for would be permissible on the ground that the writ petitioners are entitled to the same benefits as destitute women or not. Any interlocutory direction at the interim stage may not be desirable, as what can only be granted finally, shall not be allowed as an interim measure.

7.In the given circumstances, we are of the opinion that the present appeal deserves to be finally disposed of, as it involves only a single issue with regard to such relaxation and we, therefore, dispose of this appeal with a request to the learned Single Judge to dispose of the writ petitions finally, subject to the convenience of the learned Single Judge, preferably before the Christmas Holidays, 2019, commence.

8.We, accordingly, modify paragraph 7 of the impugned order dated 03.12.2019 to the said effect that the appellant shall be liable to comply with the directions only after the final decision by the learned Single Judge.

The Writ Appeal is disposed of with the said observation. There shall be no order as to costs. Consequently, C.M.P.No.26472 of 2019 is closed.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

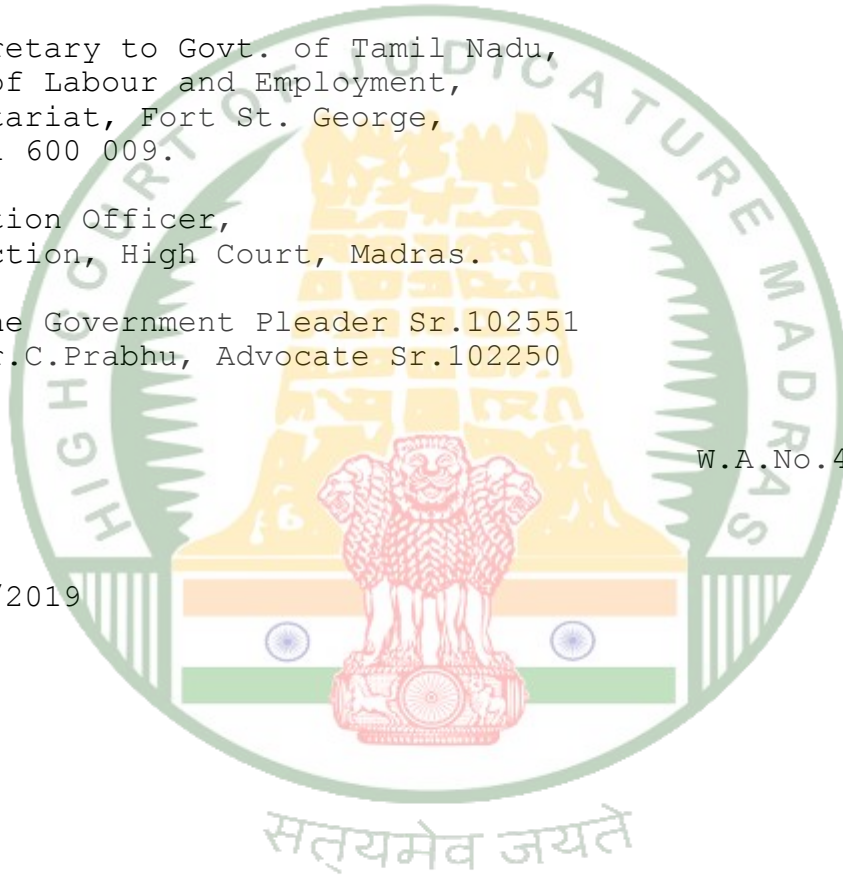
To

- 1.The Chairman,
Tamil Nadu Uniformed Services
Recruitment Board, Old COP Office
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- 2.The Secretary to Govt. of Tamil Nadu,
Dept. of Social Welfare, Secretariat,
Fort St. George, Chennai 600 009.
- 3.The Secretary to Govt. of Tamil Nadu,
Dept. of Labour and Employment,
Secretariat, Fort St. George,
Chennai 600 009.
- 4.The Section Officer,
Writ Section, High Court, Madras.

+1cc to the Government Pleader Sr.102551
+1cc to Mr.C.Prabhu, Advocate Sr.102250

W.A.No.4245 of 2019

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