



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.05.2019

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THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD) No.12436 of 2019 and
W.M.P(MD) Nos.9282 and 9283 of 2019

P.Poonguzhali

: Petitioner

Vs.

1.The State of Tamil Nadu,
rep. by its Principal Secretary,
Home Department,
Secretariat, Chennai -9.

2.The Chairman,
Tamil Nadu Uniformed Service Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore, Chennai - 8.

3.The Member Secretary,
Tamil Nadu Uniformed Service Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore, Chennai - 8.

4.The Director General of Police,
O/o. The Director General of Police,
Tamil Nadu, Chennai - 4.

5.The Additional Director General of Police,
State Crime Records Bureau,
O/o. The Additional Director General of Police,
Chennai - 4.

: Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order made in Rc.No.A1/46/617/SCRB/2019, dated 15.03.2019 passed by the 5th respondent and quash the same and consequently, direct the respondents to consider the petitioner for appointment to the posts of sub Inspector of Police (Finger Print).

For Petitioner

: Mr.S.Dinesh Rao

<https://hcservices.ecourts.gov.in/hcservices/>

For Respondents

: Mr.K.Aayiram K.Selvakumar

Additional Government Pleader



O R D E R

Heard the learned counsel on either side.

2. The learned Additional Government Pleader appearing for the respondents submitted that in respect of orders passed in similar Writ Petitions they are proposing to file a Writ Appeal.

3. The Writ Petitioner was an applicant for being appointed to the post of Sub Inspector of Police (Finger Print, 2018). The petitioner was provisionally selected. But, then, she was found un-fit in the medical examination. Therefore, the impugned proceeding dated 15.03.2019 came to be issued.

4. It is not in dispute that similar orders were put to challenge and by order dated 30.04.2019 in WP(MD).Nos.5441 of 2019, etc., batch., following order was passed:

"... 14.It is a settled law that a physical defect or deformity, which in no way interfere with the normal or efficient functioning, should not be considered as an absolute bar to public employment in regard to the posts not associated with physical activity.

15.As far as the petitioners herein are concerned, they were disqualified for appointment to the post in question, even though they successfully passed in the tests conducted by the respondents, on the ground that they do not possess the required visual standard. This Court is of the view that if such defect does not come in the way of their normal functioning and can be corrected, the petitioners should not be treated as medically unfit for the post in question. Now-a-days, the technology has developed well and gone beyond our imagination. Time is not far off to see the planets and Mars through lens from this world. The eye vision pointed out by the respondents can easily be cured by the petitioners by various scientific methods. Hence, denying the employment opportunity to the petitioners on the ground of deviation in the visual standard, citing a new rule, which is not at all referred to in the notification, is arbitrary and illegal.

16.It is to be pointed out at this juncture that either to formulate or enforce a policy not to consider any candidate for employment irrespective of the fact whether he is medically unfit or fit,

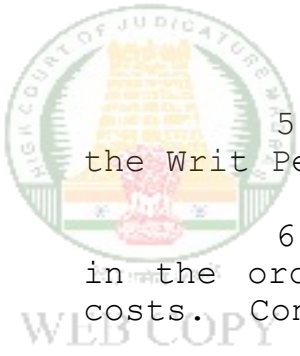


is nothing but short of arbitrariness and shows a baseless prejudice against such candidate. No authority can formulate a policy relating to appointment with such arbitrariness. Normally, the Courts will not interfere with the standards fixed by an authority to ascertain medical fitness of a person for employment. But the Courts will interfere with an arbitrary prohibition to appointment in absolute terms merely on a physical defect or deformity, which is not shown to have any effect on the normal and efficient functioning of the person in the post and it can be corrected. There can be no doubt that different standards of fitness may be required for different types of posts. But what is required is mental alertness and mental capability and physical fitness, which will ensure efficient discharge of his functions. So long as the defect or deformity can be corrected and it has no effect on the efficient and normal functioning of the person, the defect by itself cannot be a ground to disentitle him for being considered for that post.

17. In view of the foregoing reasons as well as taking into consideration the pitiable situation of the petitioners, whose candidatures were rejected due to lack of eye-vision, which can be rectified owing to technology as-on-today, and they are functioning like any other person normally, this Court deems it fit to set aside the impugned orders, as it cannot be sustained in the eye of law. Accordingly, the impugned orders are set aside. The respondents are directed to consider the candidatures of the petitioners for appointment to the post of Sub-Inspector of Police (Technical) and (Finger Print) 2018, if they are otherwise found eligible.

18. While parting with the cases at hand, this Court hereby directs the respondents to include any such conditions as prescribed under the relevant Rules and the Government orders at the time of issuing notification itself in future, so that, this type of causing hurdles to the candidates, who applied on the fond hope that they will get appointment, may not arise.

<https://hcservices.ecourts.gov.in/hcservices/> 19. The Writ Petitions are allowed in the above terms. ... "



5. Since the case on hand is similar the order impugned in the Writ Petitions is also quashed.

6. This Writ Petition is allowed on similar terms as found in the order made in WP(MD).Nos.5441 of 2019, etc., Batch. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (Cr1.side)/
Vacation Officer

/ True Copy /

Sub Assistant Registrar(CS)

To

- 1.The Principal Secretary to Government of Tamilnadu,
Home Department,
Secretariat, Chennai -9.
- 2.The Chairman,
Tamil Nadu Uniformed Service Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore, Chennai - 8.
- 3.The Member Secretary,
Tamil Nadu Uniformed Service Recruitment Board,
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O/o. The Director General of Police,
Tamil Nadu, Chennai - 4.
- 5.The Additional Director General of Police,
State Crime Records Bureau,
O/o. The Additional Director General of Police,
Chennai - 4.

+1 CC to M/s.SPL GP (SR-66653[F] dated 31/05/2019)

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ES/10.06.2019/4P/7C