



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) .No.7989 of 2014

Ramasamy

... Petitioner

-Vs-

Director General of Police/Chairman,
Tamil Nadu Uniformed Services
Recruitment Board,
No.807, P.T.Lee,
Chengalvaraya Naicker Maligai,
Annasalai, Chennai 600 002.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent in C.NO.D2/1147/2012, dated 23.12.2013 and quash the same as arbitrary, capricious and illegal and consequently direct the respondent to positively consider the candidature of the petitioner for the post of Grade II police Constable/Grade II Jail Warden/Fireman for the year 2012.

For Petitioner : Mr.P.Ganapathi Subramanian

For Respondents : Mr.K.Mu.Muthu
Additional Government Pleader

ORDER

The order of rejection, dated 23.12.2013, rejecting the candidature of the writ petitioner for selection and appointment to the post of Grade-II Police Constable, is under challenge in the present writ petition.

2.The writ petitioner participated in the process of selection for appointment to the post of Grade-II Police Constable, pursuant to the recruitment notification issued. The petitioner scored 49 marks in the written examination. The learned appearing on behalf of the writ petitioner states that the cut-off mark for the General category is 56. The petitioner failed to produce the original Community Certificate to establish that he belongs to Most



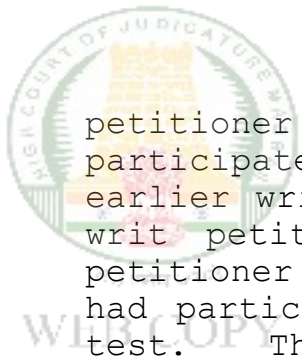
Backward Class. Thus, he was not permitted to participate in the further process of selection. Earlier, the petitioner filed W.P.No.3677 of 2013 and this Court passed an order as follows:-

"...3.The learned counsel for the petitioner would submit that the petitioner in fact produced the original community certificate and that the original community certificate is even now available at the hands of the petitioner. The same was issued by the Deputy Tahsildar, Palani on 24.08.2012. The petitioner had submitted a Xerox copy of the same along with his application. When the fact remains that the petitioner was in possession of the original community certificate, it is too difficult to believe that he could not have produced before the respondent. At any rate, as of now, there is no dispute that the petitioner belongs to Most Backward Class. Therefore, the petitioner is eligible for the Physical Fitness Examination since he had secured 49 marks which is the cut-off mark for Most Backward Class. In such view of the matter, the impugned order is liable to be quashed.

4.In the result, the writ petition is allowed, the impugned order is quashed and the respondent herein is directed to conduct physical Fitness Examination to the petitioner, within a period of two months from the date of receipt of a copy of this order and to select him for recruitment, provided he satisfies all the required qualifications. Consequently, the connected miscellaneous petition is closed. No costs."

3.The High Court proceeded on the basis of the submissions made by the petitioner that he was not permitted to participate in the physical efficiency test and endurance test. Accordingly, the respondent was directed to conduct physical fitness examination to the petitioner within a period of two months from the date of receipt of a copy of this order. However, the impugned order, dated 23.12.2013 was passed setting out the entire facts and it is stated that the writ petitioner, even before filing of the earlier writ petition, participated in the physical verification test and endurance test. It is stated that the petitioner had secured 49 marks in the written examination and 12 marks in the physical efficiency test, totally 61 marks. Even if, he is treated as a candidate belonging to MBC Community, still he does not have marks enough to qualify for any post in common recruitment of Grade II Police Constable / Grade II Jail Warden / Firemen for the year 2012. Thus, he is not entitled for any of the above posts, because he does not satisfy the required qualification. The petitioner was not within the zone of consideration.

4.The learned counsel appearing on behalf of the writ

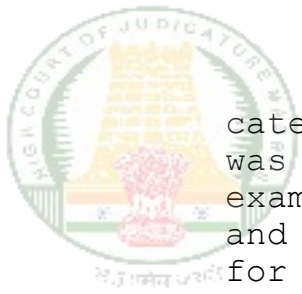


petitioner is unable to establish that the writ petitioner had not participated in the physical verification test, filing of the earlier writ petition in W.P.No.3677 of 2013. In fact the earlier writ petition was filed with false set of facts by the writ petitioner and more specifically, by suppressing the fact that he had participated in the physical verification test and efficiency test. The Court also proceeded on the basis that the writ petitioner was not permitted to participate in the physical efficiency test and endurance test and accordingly, issued a direction to the respondents to conduct physical efficiency test to the writ petitioner. Contrarily, the writ petitioner had already participated in the physical efficiency test and endurance test. The fact regarding his participation is while narrated in the counter filed by the Inspector General of Police and Member Secretary, Tamil Nadu Uniformed Services Recruitment Board in paragraph Nos.7, 8 and 9 which all are extracted hereunder:-

"..7.It is submitted that the contention of the petitioner in para 3 that physical fitness test was not conducted on him is false. This petitioner has actually undergone Physical Endurance Test on 22.08.2012 and Physical Efficiency Test on 28.08.2012 and he has affixed his signature before the Chairman and Members of the Sub-Committee in the respective column in PET coding sheet. Thereafter, due to his non-production of original community certificate he was treated as 'OC' and was disqualified for want of required cut off mark to this category.

8.It is submitted that on such disqualification, the petitioner herein filed W.P.No.3677 of 2013. It is further submitted that the respondent has not placed the records pertaining to physical efficiency test of this petitioner in W.P.No.3677 of 2013, since the subject matter of this writ was on the ground of Community certificate. Therefore, the contention of the petitioner in para 7 of the petition that, "The respondent have not conducted any physical fitness test to me earlier on the ground that I have not produced the community certificate and as such my candidature is not eligible even for considering the physical fitness test" is false. Whereas the fact remains that the petitioner herein has secured 12 marks in Physical Efficiency Test.

9.It is further submitted that on complying the order of this Court in W.P.No.3677 of 2013, this respondent took into consideration of this petitioner's 'MBC' Community Certificate for the purpose of calculating the prescribed cut off marks for respective



category of posts. On such calculation, the petitioner was found to have scored 49 marks in written examination and 12 marks in physical efficiency test, and thus secured totally 61 marks. The cut off mark for "MBC" category for AR is 73 and for TSP, Jail Warder and Firemen are 67. Since this petitioner has secured only 61 marks he could not be selected and appropriate proceedings was communicated to him in this regard. Therefore, the contention of the writ petitioner that this respondent has not followed the direction of this Court in W.P.No.3677 of 2013 in its true letter and spirit is not correct. This respondent submits that the proceedings in C.No.D2/1147/2013, dated 23.12.2013 was drawn in accordance with rules and in compliance to the order of the Court and hence is in accordance to law."

5.Thus, the earlier orders of this Court was obtained by the petitioner by suppressing the vital facts that he had participated in the physical efficiency test and endurance test. Thus, now the writ petitioner cannot seek the benefit of the earlier orders passed by this Court in W.P.No.3677 of 2013. This apart, the petitioner scored 61 marks and therefore, he was not within the zone of consideration. This being the factum, the order impugned passed is in consonance with the legal principles settled and further the reasons stated are also in accordance with the selection procedures. Thus, there is no infirmity in the impugned order and accordingly, the writ petition is devoid of merits and stands dismissed. No costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar(CS)

To
The Director General of Police/Chairman,
Tamil Nadu Uniformed Services
Recruitment Board, No.807, P.T.Lee,
Chengalvaraya Naicker Maligai,
Annasalai, Chennai 600 002.

+1 CC to M/s.SPL GP (SR-82842[F] dated 21/08/2019)

W.P. (MD) .No.7989 of 2014
20.08.2019

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