



WEB COPY

W.A.(MD)No.1088 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **25.10.2019**

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.A. (MD)No.1088 of 2019

and

C.M.P. (MD)No.9791 of 2019

R.Rajaram

... Appellant/Writ Petitioner
Vs.

The Chairman-cum-Director General of Police,
Tamil Nadu Uniformed Services Recruitment Board,
Anna Salai,
Chennai-02.

..Respondent/Respondent

PRAYER: Writ Appeal is filed under Clause 15 of the Letter Patent Act, to allow the writ appeal and set aside the order passed in W.P. (MD)No.1132 of 2014 dated 08.08.2019 on the file of this Court.

Prayer in WP(MD). 1132/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for records relating to the impunged order passed by the respondent dated 3.7.2013 in Na.Ka.NO.A3/02131/2013 and quash the same and further directing the respondent to award half mark to the petitioner for sports certificate as per the Information Brochure issued by the respondent and include the petitioner in the list of selected candidates to the post of Gr-II Police Constables/Gr-II Jail Warders/Fireman-2012 and consequently appoint the petitioner as Gr-II Police Constable or Gr-II Jail water or fireman on par with his batch mates with all consequential service benefits within a time frame as fixed by this Honble court.

For Appellant : Mr.I.Pinaygash

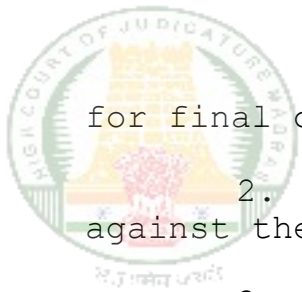
For Respondents : Mr.A.K.Baskara Pandian
Special Government Pleader

JUDGMENT

[Judgment of this Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.I.Pinaygash, learned counsel for the appellant, Mr.A.K.Baskara Pandian, learned Special Government Pleader for the respondent. By consent on either side, this writ appeal is taken up

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for final disposal.

2. This appeal filed by the writ petitioner is directed against the order, dated 08.08.2019 in W.P.(MD)No.1132 of 2014.

3. The appellant filed writ petition challenging his non-selection to the post of Grade-II Police Constable / Grade-II Jail Warders / Fireman conducted by the respondent Board for the year 2012. The appellant did not secure $\frac{1}{2}$ mark, otherwise, he would secure 66 marks fixed for the candidate belonging to BC community. The reason for missing of $\frac{1}{2}$ mark is because, the appellant did not produce the certificate to establish that he is entitled to $\frac{1}{2}$ mark for having participated in inter-school / college sports.

4. The learned counsel for the writ petitioner strenuously contended that the appellant had secured 50 marks out of 80 marks in the written test, when the minimum mark is only 28 and in the physical endurance test, the appellant had secured 15 marks out of 15 marks, whereas the pass mark is only 9. For NSS, the appellant was awarded $\frac{1}{2}$ mark. However, due to inadvertence, the certificate to establish that the appellant had participated in the inter school sports was not produced, as a result of which, the appellant lost out of $\frac{1}{2}$ mark and the total mark obtained by the appellant is 65.50 marks as against the cut of mark 66 for Backward Community candidates. In support of the said contention, the learned counsel for the petitioner places reliance on the decision of the Hon'ble Division Bench of this Court in the case of **National Institution of Fashion Technology and another Vs. V.S.Jayya Vishrant** [W.A.No.772 of 2017], dated 08.08.2017. It is submitted that the said decision was rendered taking note of the decision of the Hon'ble Supreme Court in the case of **Dolly Chhanda Vs. Chairman, Jee and others** [(2005) 9 SCC 779] and the law laid down in the said decision should be applied to the case on hand and the appellant should be granted an opportunity to produce those certificates before the respondent Board enabling him to be entitled to be awarded $\frac{1}{2}$ mark.

5. We have heard the learned Special Government Pleader on the above submission.

6. In our considered view, the relief sought for in the writ petition was rightly denied by the learned writ Court. Instructions to the candidates are binding on the candidates and there can be no relaxation. At the time of certificate verification, the appellant failed to submit the original sports records and in fact in the coding seat, which is furnished to the candidate prior to certificate verification, the appellant has shaded 'No' in column No.16, which pertains sports records. In such circumstances, we cannot called upon to exercise discretion to relax the norms prescribed in the notification, which has got force of law. Further more, we find that the selection is for the year 2012 and there have



been subsequent selections done by the respondent Board.

7. In the case of National Institute of Fashion Technology, it is contended that the candidate cannot claim a seat against one of the seats reserved for OBC. In respect of such contention reliance was placed on the decision of the Hon'ble Supreme Court in the case of ***J.K.Public Service Commission Vs. Israr Ahmad and others*** [(2005) 12 SCC 498]. This contention raised was accepted by the Hon'ble Division Bench as could be seen in paragraph 10 of the order. In the said paragraph the Hon'ble Division Bench made it clear that the relief has been granted to the writ petitioner on the peculiar circumstances of the case.

8. We have gone through the observations in paragraph 7 of the judgment and we find that the said finding affirms legal principles because, instruction to candidate issued by the recruiting agency and notification is binding on the candidate and no candidate can make claim that in his or her case, relaxation has to be shown. Thus for the above reason, we find that there are no ground to interfere with the order of the learned Single Bench. Accordingly, this writ appeal fails and dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

Sub Assistant Registrar(CS)

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To

The Chairman-cum-Director General of Police,
Tamil Nadu Uniformed Services Recruitment Board,
Anna Salai,
Chennai-02.

+1 CC to M/s.SPL GP (SR-94891[F] dated 30/10/2019)

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25.10.2019

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