



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD)No.8827 of 2015

and

M.P.(MD)No.2 of 2015

WEB COPY

Y.Arul Jothi Devapitchai

... Petitioner

-Vs-

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Home Department, Secretariat,
Chennai.

2.The Chairman,
Tamil Nadu Uniformed Service Recruitment Board,
807, Sengalvaraya Naicker Maligai,
Anna Salai, Chennai.

3.The Director General of Police,
Santhome, Chennai.

... Respondents

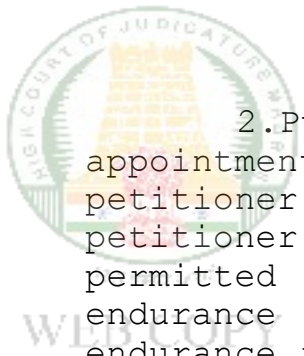
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned disqualification slip issued by the second respondent in his proceedings in Rc.No.R1/4344/2011 dated 21.08.2012 and quash the same as illegal and consequently, to direct the respondents to consider the petitioner for appointment to the post of Grade-II Police Constable in the light of exemption granted for Ex-Service Man from undergoing physical test as per the Annexure-II r/w Rule 14 of the Special Rules for Tamil Nadu Police Sub-Ordinate Service within the period that may be stipulated by this Court.

For Petitioner : Mr.A.Nawazkhan,
For M/s.Ajmal Associates.

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

ORDER

The order of disqualification issued by the second respondent in proceeding dated 21.08.2012, rejecting the candidature of the writ petitioner on the ground that he was found not qualified in the endurance test, is under challenge in the present Writ Petition.



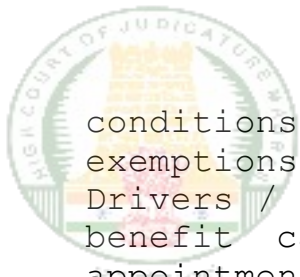
2. Pursuant to the recruitment notification issued for appointment to the post of Grade-II Police Constable, the writ petitioner participated in the process of selection. The writ petitioner was successful in the written examination. He was permitted to participate in the physical efficiency test and endurance test. The writ petitioner was unsuccessful in the endurance test conducted by the Selection Committee. Accordingly, the Chairman / Member, Sub Committee issued disqualification slip, in proceeding dated 21.08.2012, disqualifying the writ petitioner for selection to the post of Grade-II Police Constable.

3. Challenging the said order, the learned counsel appearing on behalf of the writ petitioner states that the writ petitioner joined in the Indian Army as Constable (INBSF) on 26.02.1990. After serving in the Indian Army as a meritorious Constable, he was discharged on 01.08.2011 after completing 21 years of service. Therefore, exemption is to be granted from participating in the endurance test.

4. The learned counsel appearing on behalf of the writ petitioner states that in respect of physical efficiency test and physical endurance test, Ex-Servicemen including the writ petitioner are entitled for exemption and the benefit of exemption is to be granted.

5. This Court is of an opinion that exemption cannot be granted by the Court in a Writ Petition. Exemption, if any, is granted with reference to the rules, the same must be notified in the recruitment notification itself. In the present case, the writ petitioner has not challenged the notification. Contrarily, he had participated in the written examination as well as in the physical efficiency test and endurance test. After participation and after became unsuccessful in the endurance test, the writ petitioner has filed this Writ Petition, seeking exemption from the physical endurance test.

6. First of all, such approach cannot be entertained by the High Court under Article 226 of Constitution of India. An unsuccessful candidate cannot challenge the terms and conditions incorporated in the recruitment notification. As per the recruitment notification, exemption was granted only in respect of the categories of Drivers / Auto-Mechanics / Auto Electricians / Armourers, who served in the Indian Army. The writ petitioner had served as Head Constable in Motor Transport Department of 20th Battalion Border Security Force, which is a general duty. In view of the fact that the writ petitioner had served in general duty in Indian Army, more specifically, in Motor Transport Department, he is not entitled to claim any exemption from participating in the physical efficiency test and endurance test. When the terms and



conditions of the recruitment unambiguously enumerates that the exemptions are to be granted only in respect of the categories of Drivers / Auto-Mechanics / Auto Electricians / Armourers, the said benefit cannot be extended by the Court, so as to provide appointment to the writ petitioner, who served as Head Constable in Motor Transport Department of 20th Battalion Border Security Force.

7.Thus, the claim of the writ petitioner for exemption cannot be granted. As per the terms and conditions as well as in accordance with the recruitment rules, the writ petitioner has to undergo physical efficiency test and endurance test. The writ petitioner also had undergone the test and was unsuccessful in the test.

8.This being the factum, there is no infirmity as such in respect of the disqualification slip issued by the Selection Committee. Accordingly, this Writ Petition is devoid of merits and the same stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Secretary to Government,
State of Tamil Nadu,
Home Department, Secretariat,
Chennai.

2.The Chairman,
Tamil Nadu Uniformed Service Recruitment Board,
807, Sengalvaraya Naicker Maligai,
Anna Salai, Chennai.

3.The Director General of Police,
Santhome, Chennai.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-83890[F] dated 28/08/2019)

+1 CC to M/s.SPL GP (SR-83991[F] dated 28/08/2019)
MYR

W.P. (MD) No. 8827 of 2015

27.08.2019