



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.5049 of 2016

and

W.M.P. (MD) No.4499 of 2016

A.Solaikumar

... Petitioner

vs.

1.The Inspector General of Police,
Police Training Centre,
Ashok Nagar,
Chennai 83

2.The Commander,
Tamil Nadu Special Police,
XII Battalion,
Manimuthar,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to impugned order dated 28.10.2014 of the 2nd respondent and consequential proceedings dated 12.02.2016 of the 2nd respondent and quash the same and consequently direct the respondents to permit the petitioner to undergo training for the post of Constable in the next training.

For Petitioner : Mr.J.Sankarapandian

For Respondents : Mr.M.Jeyakumar,
Additional Government Pleader

ORDER

The petitioner herein was selected for the post of Grade II Constable in the recruitment held in the year 2012 and was directed to undergo training from 17.02.2013 onwards under the second respondent herein. Accordingly, the petitioner had also joined the training from 17.02.2013 onwards. During the course of the training, he claims to have developed a medical ailment owing to the disease of Epididymo Orchitis and had underwent a surgery pursuant to which, he was advised bed rest for a period of three months. Thereafter, the petitioner herein had produced all the medical certificates and



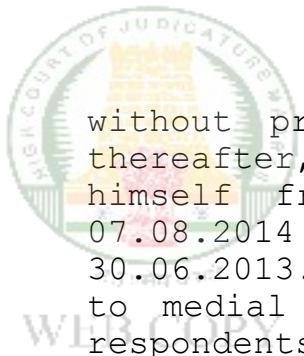
fitness certificate and sought for rejoining the training from 01.07.2013 onwards. The second respondent herein, by a letter dated 03.07.2013 had referred the petitioner to the Medical Board for the purpose of medical examination and for a report there of. When the petitioner has presented himself before the Medical Board, the Board had refused to examine him medically and by a letter dated 18.07.2013, had stated that the medical leave itself has expired on 30.06.2013 and therefore, sent a report stating that further proceedings can be taken by the second respondent himself. In this background, the impugned order dated 28.10.2014 came to be passed, pursuant to the show cause notice dated 20.08.2014, holding that the petitioner was not eligible and his probation period was declared to have been ceased and accordingly, he was discharged. Challenging the same, the present writ petition has been filed.

2. The learned counsel for the petitioner would submit that pursuant to the selection, the petitioner had underwent the training from 17.02.2013 for a period of 18 days and thereafter, he developed a medical ailment which prevented him from pursuing the training. The petitioner had also undergone a surgery owing to the aforesaid medical ailment and he had been periodically sending the medical certificates to the respondents explaining his temporary inability to continue with the training. It is also his submission that the Medical Board was not justified in refusing to examine him, on the ground that, the medical leave had expired. In view of his present physical fitness, he is willing to undergo the training and therefore, seeks for setting aside the impugned order.

3. The learned Special Government Pleader appearing on behalf of the respondent police submitted that there is no infirmity in the impugned order. According to him, the Police Department is a disciplined force and the fact that the petitioner had absented himself during the course of training for more than 90 days, cannot be extended with any lenience and the same would amount to desertion since he was only in his probation period. In view of such absence, the respondents had also duly complied with the procedure by issuance of a show cause notice and thereafter, the impugned order came to be passed.

4. I have given careful consideration to the submissions made by the respective counsels.

5. While the case of the respondents is that the petitioner had absented himself on 01.03.2013 without any prior permission, the petitioner seems to state that he had produced necessary medical records during the relevant period and the medical leave was also granted. A counter affidavit filed by the respondents is also to the effect that after the petitioner had absented from 01.03.2013 onwards, he had availed 10 days medical leave and reported for training on 11.03.2013. Subsequently, he entered on medical leave



without prior permission from 25.03.2013 to 30.06.2013 and had thereafter, availed medical leave. Pursuant to that, he had absented himself from 01.07.2013 onwards. The show cause notice dated 07.08.2014 also reiterates the medical leave from 25.05.2013 to 30.06.2013. When the petitioner had sought for details with regard to medical certificates submitted by him under the RTI Act, the respondents herein vide letter dated 18.01.2016 had also confirmed that the medical certificates for the period from 02.03.2013 to 09.03.2013 was received by them on 13.03.2013; 25.03.2013 to 22.04.2013 was received on 25.05.2013; 23.04.2013 to 21.05.2013 was received 25.05.2013, 22.05.2013 to 15.06.2013 received on 01.07.2013 and 16.06.2013 to 30.06.2013 was received on 01.07.2013. Therefore, it cannot be said that the petitioner was totally negligent or careless in sending the medical certificates to the respondents thereby explaining his medical inability to attend the training during the relevant period.

6. When the petitioner had recovered and reported for training on 01.07.2013, the respondents thought it fit to refer him to the Medical Board and by a proceedings dated 03.07.2013, he was so referred. However, on 18.07.2013, the Medical Board returned his candidature stating that his medical leave had expired on 30.06.2013 itself and therefore, expressed its inability to medically examine him and give a report. Such a statement is reflected in the impugned order itself. When the second respondent had specifically referred the petitioner for the purpose of medical examination, the Board ought not to have refused to give a medical examination report on the ground that his medical leave had expired and that, an appropriate option available to the Board could have been to examine him on the basis of his medical condition instead of returning it for further action by the respondent themselves.

7. It is further stated in the impugned order that the absence of the petitioner from 01.07.2013 is unauthorized, whereas the same order states that when he had appeared, the respondents had also appropriately referred him to the Medical Board on 03.07.2013.

8. This Court had examined the conduct of the petitioner from his inception into the training and thereafter. When he was originally selected and directed to undergo the training, he had complied with the same and had pursued his training for at least 18 days from 17.02.2013. It is his specific case that during the course of the training, he had developed a medical ailment. He had also periodically informed the respondents about his medical condition and had also enclosed the medical certificates for most of his period of absence. Had the Medical Board examined him without reference to the expiry of his medical period, the necessity for passing the impugned orders may not have arisen.



9. In the light of the submission of the petitioner that he is now medically fit to undergo the training afresh, this Court is of the view that an opportunity can be extended to the petitioner, who has otherwise been found fit to be selected to the post of Grade-II Constable.

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10. In the light of the above observations, the impugned order dated 28.10.2014 is set aside. Consequently, the respondents herein shall absorb the petitioner as a probationer and permit him to undergo the required training afresh. The respondents are also at liberty to subject the petitioner for a medical examination before the concerned Medical Board and to ascertain his present medical status. All these observations shall be complied by the respondents atleast within a period of ten (10) days from the date of receipt of a copy of this order.

11. Accordingly, the Writ Petition is allowed. No costs. Consequently, connected W.M.P.(MD) No.4499 of 2016 is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar(CS)

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To

1.The Inspector General of Police,
Police Training Centre,
Ashok Nagar, Chennai 83

2.The Commander,
Tamil Nadu Special Police,
XII Battalion, Manimuthar,
Tirunelveli District.

+1 CC to M/s.J.SANKARAPANDIAN, Advocate (SR-104757[F]

+1 CC to M/s.SPL.GP (SR-105002[F] dated 13/12/2019)

Order made in
W.P. (MD) No.5049 of 2016
Dated: **12.12.2019**

mr(CO)
TR(08.01.2020) 4P 5C