



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P (MD)No.24831 of 2019

and

W.M.P (MD) .No.21419 of 2019

B.Balakrishnan

... Petitioner

vs.

1.The Member Secretary

Tamil Nadu Uniformed Services
Recruitment Board (TNUSRB)
Old Commissioner of Police Office Campus
Pantheon Road, Egmore, Chennai

2.The Chairman

Sub Committee
Tamil Nadu Uniformed Services
Recruitment Board (TNUSRB)
South Zone, I.G.Office
Madurai

3.The Superintendent of Police

Ramanathapuram

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the documents relating to the disqualification slip issued by the 2nd and 3rd respondents in C.No.R2/850/2019 dated 19.11.2019 and quash the same as illegal and may direct the respondents to conduct fresh physical efficiency test for petitioner against the recruitment of Grade-II Police Constable, Jail Warden Grade-II and Firemen and may appoint him if he otherwise eligible.

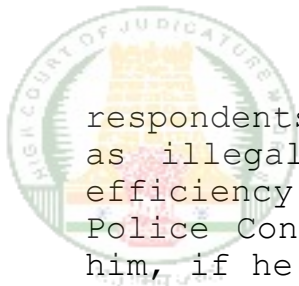
For Petitioner : Mr.K.P.Narayanakumar

For Respondents : Mr.V.R.Shanmuganathan

Special Government Pleader

ORDER

This writ petition is filed to call for the documents relating to the disqualification slip issued by the 2nd and 3rd respondents in C.No.R2/850/2019 dated 19.11.2019 and quash the same as illegal and may direct the respondents to conduct fresh physical efficiency test for petitioner against the recruitment of Grade-II Police Constable, Jail Warden Grade-II and Firemen and may appoint him if he otherwise eligible.



respondents in C.No.R2/850/2019 dated 19.11.2019 and quash the same as illegal and direct the respondents to conduct fresh physical efficiency test for petitioner against the recruitment of Grade-II Police Constable, Jail Warden Grade-II and Firemen and may appoint him, if he is otherwise eligible.

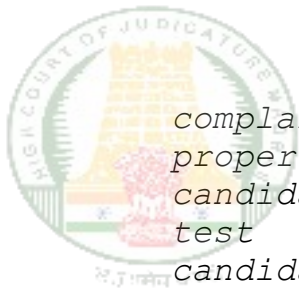
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2.Mr.V.R.Shanmuganathan, learned Special Government Pleader takes notice for the respondents. By consent of parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3.The petitioner participated in the selection for the post of Grade-II Police Constable, Grade-II Jail Warder and Firemen. The petitioner was successful in written examination and he was called for physical test. According to the petitioner, he got selected for physical efficiency test and he was successful in Physical Efficiency Test also. He was called for further Physical test to be conducted on 19.11.2019. He attended the said test. He was called upon to climb rope, at that time, it was raining and the petitioner could not climb the rope. After the petitioner was called upon to climb rope, test was stopped from 7.30 a.m to 4.30 p.m. The petitioner was informed that he will be given another chance. But, disqualification slip was given to the petitioner. The petitioner made oral and written representation on the same day and no action was taken. Hence, the petitioner has come up with the present Writ petition, challenging the disqualification slip issued by the respondents 2 and 3 dated 19.11.2019 and for a direction to respondents to conduct fresh physical efficiency test for the petitioner against the recruitment of Grade-II Police Constable, Jail Warden Grade-II and Firemen and appoint him, if he is otherwise eligible.

4.Mr.V.R.Shanmuganathan, learned Special Government Pleader contended that after the petitioner, five persons were participated in the Physical Test and two of them were selected and three persons were disqualified. The issue raised by the petitioner is a factual aspect and this Court, cannot decide the factual aspect in the writ proceedings. Further, similar issue was raised before this Court in W.P(MD).No.11138 of 2010. This Court, by order dated 06.09.2010, dismissed the Writ petition. The petitioner therein filed an appeal in W.A(MD).No.792 of 2010 and the Division Bench of this Court, dismissed the said Writ Appeal. He relied on paragraph-4 of the said Judgment, which reads as follows:

"4.The allegations mentioned in the affidavit are all being factual aspects, the Writ Court sitting under article 226, cannot entertain the order. However, the learned Single Judge, while considering the same issue has observed that the appellant having not been successful in proving his efficiency by coming up to the expectations of the selection committee, cannot come to the Court with a



complaint that the selection committee has failed to put proper or sufficient powder on the rope. When hundreds of candidates were able to participate in the rope climbing test successfully for the reasons that two of the candidates were not able to be successful in the rope climbing test, the writ Court cannot entertain this allegation not hold any roving enquiry. The very fact that the petitioner having become unsuccessful in the physical efficiency test, cannot challenge the method of conducting the physical efficiency test, however, in our considered view, the learned Single Judge has considered the same, therefore, we do not find any infirmities in the order. Accordingly, Writ Appeal fails and is dismissed. Consequently, connected miscellaneous petition is also dismissed. No costs".

Hence, the learned Special Government Pleader prayed for dismissal of this Writ petition.

5.Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

6.According to the petitioner, he was not successful in rope climbing. Due to rain, the petitioner could not climb the rope. After the petitioner, the test was stopped and no one was permitted to participate in the Physical Test. On the other hand, the contention of the learned Special Government Pleader is that, after the petitioner, five persons have participated in the Physical Test and two of them were selected and three of the them were disqualified. This is a factual issue and the similar relief sought for was rejected by the learned Judge of this Court and the same was confirmed by the Division Bench of this Court in W.A(MD).No.792 of 2010 referred to above. The reason given by the Division Bench of this Court for not giving another opportunity to the petitioner therein for rope climbing, is squarely applicable to the facts of the present case.

7.For the above reason, this Writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //



Sub Assistant Registrar(CS)

To
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1.The Member Secretary
Tamil Nadu Uniformed Services
Recruitment Board (TNUSRB)
Old Commissioner of Police Office Campus
Pantheon Road, Egmore
Chennai

2.The Chairman,
Sub Committee
Tamil Nadu Uniformed Services
Recruitment Board (TNUSRB)
South Zone, I.G.Office
Madurai

3.The Superintendent of Police
Ramanathapuram.

+1 CC to M/s.K.P. NARAYANA KUMAR, Advocate (SR-101723[F] 27/11/2019)

+1 CC to M/s.Special Govt.Pleader (SR-101719[F] dated 27/11/2019)

W.P (MD) No.24831 of 2019

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msa

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