



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.25446 of 2019

and

W.M.P. (MD)Nos.22007 and 22008 of 2019

M.Kaleeswari

... Petitioner

-Vs-

- 1.The Chairman,  
Tamil Nadu Uniformed Services Recruitment Board,  
Chennai - 8.
  - 2.The Chairman,  
Sub-Committee,  
Madurai Centre & Deputy Inspector General of Police,  
Madurai Range,  
Madurai.
  - 3.The Member Secretary,  
Tamil Nadu Uniformed Services Recruitment Board,  
Chennai - 8.
  - 4.The Superintendent of Police,  
Madurai District,  
Madurai.
  - 5.The In-Charge Officer,  
Deputy Superintendent of Police/Member-II,  
Tamil Nadu Uniformed Services Recruitment Board,  
Chennai - 8.
- ... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned order, passed by the respondents 2 and 5 against the petitioner, vide his proceedings in impugned order in C.No.R2/850/2019, dated 18.11.2019, quash the same insofar as the petitioner is concerned as arbitrary and consequently, direct the respondents to permit the petitioner to participate in the further course of selection process in the common Recruitment for the posts of Gr.II Police Constable, Gr.II Jail Warder and Fireman for the year 2019.

For Petitioner : Mr.M.E.Jeyakarthik

For Respondents : Mr.K.Chellapandian  
Additional Advocate General  
Assisted by  
Mr.C.Ramar  
Additional Government Pleader



**ORDER**

This Writ Petition has been filed seeking to quash the impugned order passed by the respondents 2 and 5 against the petitioner, vide proceedings in C.No.R2/850/2019, dated 18.11.2019, and a consequential direction to the respondents to permit the petitioner to participate in the further course of selection process in the common Recruitment for the posts of Gr.II Police Constable, Gr.II Jail Warder and Fireman for the year 2019.

2.The case of the petitioner is that she belongs to MBC Community and has participated in the recruitment to the post of Grade - II Police Constable, Jail Warder and Fireman - 2019 in pursuant to the notification issued by the first respondent. She has successfully completed the written examination. Thereafter, she appeared for the physical measurement test, in which, the respondents' officials measured the petitioner's height as 158.7 c.ms. As per the Rule, if the measurement is above 0.6 c.m., it has to be rounded off to the next full number. Hence, the petitioner's height has to be rounded off to 159 c.ms. But, the respondents without doing so, disqualified the petitioner. The petitioner's original height is 159 c.ms., which is the required height for M.B.C. Candidates. Therefore, aggrieved over the above measurement, the petitioner appealed to the second respondent for re-measurement. Consequently, the second respondent's officials measured the petitioner's height through digital machine, but, again, they wrongly measured the petitioner's height as 158.8 c.ms. and passed impugned order by reducing 0.1 c.m. of height. Aggrieved over the same, the petitioner has come out with the present Writ Petition.

3.According to the learned counsel appearing for the petitioner, in response to the Advertisement issued by the Chairman, Tamil Nadu Uniformed Services Recruitment Board, Chennai, dated 06.03.2019, the petitioner has applied for the post of Grade - II Police Constable, Jail Warden, Fireman - 2019. After successful in the written examination, though the petitioner possesses required height, her candidature was rejected due to insufficiency of height measurement, whereas the petitioner's height is 159 c.ms. Therefore, the learned counsel appearing for the petitioner contended that the respondents have not conducted the physical measurement properly. To substantiate the said contention, the petitioner has also obtained a Physical Fitness Certificate to show that her height is in accordance with the norms fixed in the Notification issued by the respondents. Therefore, the method adopted by the respondents in measuring the height of the petitioner is not proper and therefore, the learned counsel seeks indulgence of this Court.

4.Per contra, the learned Additional Advocate General submitted that the respondents have conducted the measurement test in tune with the Advertisement issued by them and the same has been video-graphed and therefore, no interference is required by this Court.



The issue raised by the petitioners are disputed question of facts and the same cannot be decided by this Court in a Writ Proceeding and prayed for dismissal of the Writ Petitions.

5. In support of his contentions, the learned Additional Advocate General relied on the following judgments:-

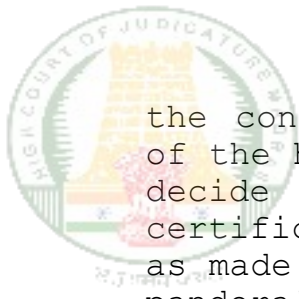
(i) **Balasubramanian Vs. The State of Tamil Nadu, Rep. by the Secretary to Government, Home Department and another [W.A. (MD) No. 792 of 2010, dated 18.11.2010]**, wherein at Paragraph 4, it has been held as follows:-

''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.''

(ii) **N. Gajendran Vs. The State of Tamil Nadu, Rep. by its Secretary, Home Department and others [W.A. (MD) No. 1295 of 2015, dated 01.02.2016]**, wherein at Paragraphs 2 and 5, it has been held as follows:-

''2. The appellant had participated in the selection for the post of Sub-Inspector of Police, pursuant to the recruitment conducted by the respondents in the year 2015. Subsequent to his physical verification, the fourth respondent through his proceedings in C.No.R2/315/2015 dated 03.08.2015 informed the petitioner as not being eligible, the reason therefor being that as against the minimum height of 170 cms prescribed for the category in which the petitioner had fallen, his height was only 169.5 cms. Aggrieved thereby, the appellant moved a Writ Petition contending that his claim of being 170 cms tall was supported by a Doctor's Certificate.

5. On perusal of the order passed by the learned Single Judge in W.P. (MD) No. 14360 of 2015, dated 12.08.2015 made we find ourselves in entire agreement with the learned Single Judge in informing that on questions of fact, the decisions of



the concerned authorities would be final. The ascertainment of the height of a candidate is for the concerned authority to decide and any external aid in this regard such as medical certificate cannot be looked into. Acceptance of pleas such as made by the petitioner would have the effect of opening the Pandora's box.'

(iii) **M.Govindammal Vs. The Chairman, Tamil Nadu Uniformed Services Recruitment Board and another [W.A.(MD)No.1265 of 2017, dated 28.03.2018]**, wherein at Paragraph 5, it has been held as follows:-

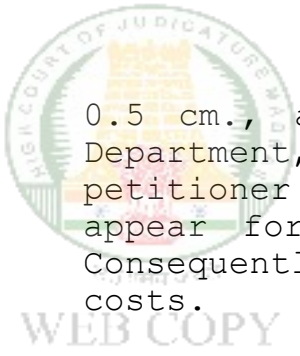
'5.We have noted that there is no averment in the writ petition and/or the memorandum of appeal making any suggestion or any possible reason to deliberately disqualify the petitioner by recording a lesser height. It is not for the Writ Court to sit in appeal over measurement of height, width of the chest etc., taken at the time of measurement test. The issues raised in the writ petition involve hotly disputed questions of fact.'

6.I have heard the learned counsel appearing for the petitioner and the learned Additional Advocate General appearing for the respondents.

7.From the materials on record, it is seen that the petitioner has come out with the present Writ Petition challenging the disqualification slip issued to her on the ground that the respondents did not properly measure the height of the petitioner.

8.In the judgments relied on by the learned Additional Advocate General, this Court held that the issues raised by the petitioners therein are disputed question of facts and the same cannot be decided in a Writ Proceeding. But, in the present Writ Petition, the petitioner is able to prove that there is some discrepancy in the measurement of height. This Court, in the order **dated 21.08.2017, made in W.P.(MD)No.15516 of 2017 [T.Thavamari Vs. Tamil Nadu Uniformed Services Recruitment Board, Rep. by its Chairman and others]**, noticing glaring errors in the selection process, ordered re-test to be conducted with the assistance of Physical Education Director and one Senior Expert from the Sports Development Authority and directed the respondents therein to hold the re-test at Madurai. The said order of this Court is applicable to the facts of the present case also.

9.In view of the same, this Writ Petition is allowed, directing the respondents to hold re-test in the presence of Commissioner of Police, Madurai City, Madurai, on 11.12.2019 at 10.00 a.m. at A.R. Ground, Madurai, where all arrangements shall be made by the respondents. In the re-test, if the height of the petitioner is found to be 158.7 or 158.8 cms., same as earlier test, the respondents are directed to round off to the nearest c.m. or nearest



0.5 cm., as the case may be, as per G.O.Ms.No.60 Home (Pol.IX) Department, dated 22.01.2015. The learned counsel appearing for the petitioner is directed to inform the same to the petitioner to appear for the said test on the above said date without fail. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

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To

- 1.The Chairman,  
Tamil Nadu Uniformed Services Recruitment Board,  
Chennai - 8.
- 2.The Chairman,  
Sub-Committee,  
Madurai Centre & Deputy Inspector General of Police,  
Madurai Range,  
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- 5.The In-Charge Officer,  
Deputy Superintendent of Police/Member-II,  
Tamil Nadu Uniformed Services Recruitment Board,  
Chennai - 8.

COPY TO:

The Commissioner of Police, Madurai City, Madurai

+1 CC to M/s.M.S. JEYAKATHIK, Advocate ( SR-102762[F] dated 29/11/2019 )

**W.P. (MD)No.25446 of 2019**  
**29.11.2019**

KK/SAR/05.12.2019/5P-8C/

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