



WEB COPY

W.P(MD)No.25310 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2019

CORAM:

THE HONOURABLE **MS.JUSTICE V.M.VELUMANI**

W.P(MD)No.25310 of 2019

and

W.M.P(MD)Nos.21892 & 21893 of 2019

S.Gokulpath

... Petitioner

Vs.

1.The Chairman,

The Tamilnadu Uniformed Services Recruitment Board,
Pantheon Road, Egmore,
Chennai - 600 008.

2.The Member Secretary,

The Tamilnadu Uniformed Services Recruitment Board,
Pantheon Road, Egmore
Chennai - 600 008.

3.The Sub Committee,

The Tamilnadu Uniformed Service Recruitment Board,
Ramanathapuram,
Ramanathapuram District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned rejection order issued by the third respondent in his proceeding C.No.R2/850/2019, dated 18.11.2019 and quash the same as illegal and unconstitutional and consequently directing the respondents to conduct re-Physical Efficiency Test to enable the petitioner to participate in the further events and to appoint the petitioner to the post of Police Constable-Grade II/Jail Warden/Fireman Gr.II within the time stipulated by this Court.

For Petitioner : Mr.C.Gangai Amaran

For Respondents : Mr.VR.Shanmuganathan,
Special Government Pleader.

ORDER

This Writ Petition has been filed seeking to quash the impugned order in C.No.R2/850/2019, dated 18.11.2019, issued by the third respondent and a consequential direction to the third respondent to re-conduct the re-Physical Efficiency Test and proceed further in accordance with law in the matter of selection and

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appointment for the post of Grade-II Police Constable, Grade-II Jail Warder and Firemen.

2.The case of the petitioner is that in long jump, he has been given only one chance and second chance was not given to him. Even though the petitioner has cleared the other tests conducted for getting appointment in Uniformed Services, he has been disqualified in the long jump and hence, he should be given another chance. Since the action of the respondents in not granting the benefit to him and the rejection of the petitioner's candidature was held to be illegal. Therefore, the disqualification order passed by the third respondent dated 18.11.2019, requires interference of this Court and hence, there shall be a physical efficiency test for long jump have to be conducted once again.

3.Per contra, the learned Special Government Pleader appearing for the respondents submitted that the contention of the petitioner is incorrect as he was given two chances in long jump and he made foul in his attempts and therefore, the case of the petitioner would not be considered once again. It is his further contention that the claim of the petitioner involves disputed question of facts, which cannot be decided in a Writ proceeding. In support of his contention, the learned Special Government Pleader relied on the judgment of a Division Bench of this Court in **Balasubramanian Vs. The State of Tamil Nadu, Rep. by the Secretary to Government 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''.



4.Further, the learned Special Government Pleader relied on the judgment of the judgment of this Court in **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 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.''

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

6.Considering the submission of the learned Special Government Pleader appearing for the respondents that already the petitioner was given two chances in the long jump event, this Court is not inclined to grant one more chance to him. If this Writ Petition is allowed, certainly the other candidates, who are similarly placed like that of the petitioner herein, not only in long jump, but also in other physical efficiency tests, may approach this Court and it will amount to opening a pandora-box. As the petitioner has been given two chances in the physical efficiency test viz., long jump and he did foul in the said test, the impugned disqualification order is perfectly in order.

7.In view of the above, the relief sought for by the petitioner cannot be granted. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AD I)

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/ /2020

Sub Assistant Registrar(CS)

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To

- 1.The Chairman,
TheTamilnadu Uniformed Services Recruitment Board,
Pantheon Road, Egmore,
Chennai - 600 008.
- 2.The Member Secretary,
The Tamilnadu Uniformed Services Recruitment Board,
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- 3.The Sub Committee,
The Tamilnadu Uniformed Sevice Recruitment Board,
Ramanathapuram,
Ramanathapuram District.

+1 CC to M/s.SPL GP (SR-102778[F] dated 29/11/2019)

W.P (MD) No.25310 of 2019
28.11.2019

KK/SAR/09.01.2020/4P-5C/