

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.5293 OF 2019

ORDER:

This writ petition is filed seeking a Writ of Mandamus declaring the action of the respondents in not re-subjecting the petitioner for participating in the Physical Efficiency Test relating to 800 mtrs run and not allowing the petitioner to participate in other events of Physical Efficiency Tests, as illegal, arbitrary and violative of Articles 14 and 16 of Constitution of India and sought for a consequential direction to respondents to allow the petitioner to participate in the 800 mtrs run of Physical Efficiency Test so as to allow him to participate in other events of Physical Efficiency Test or in alternative direct the respondents to conduct different Physical Efficiency Tests under different notifications.

Heard Sri U.Ramanjaneyulu, learned counsel for the petitioner and Sri N.V.Rama Rao, learned Standing counsel for the 1st respondent.

It has been contended by the petitioner that in pursuance to the separate notifications issued by the 1st respondent for recruitment to the Posts of SCT SI (IT & Communication), SCT PC(Civil) & SCT ASI (Information & Technology) and SCT PC (IT & Communication) petitioner had appeared for the written examinations and became eligible to participate in Physical Measurements Test (PMT) and Physical Efficiency Test (PET). Though there were separate notifications to different posts, the candidates were made to appear for Physical Measurements Test and Physical Efficiency Test in common. The grievance of the petitioner is that after clearing the Physical Measurements Test, petitioner was

subjected to Physical Efficiency Test of 800 mtrs run on 05.03.2019, on which day petitioner was suffering with viral fever and could not clear the test, as a result of which he was not allowed to participate in rest of the events.

Learned counsel for the petitioner contends that the day i.e., 05.03.2019 on which test of 800 mtrs run was conducted, petitioner was suffering with viral fever and has requested the respondents by way of representation to postpone the Physical Efficiency Test to some other day but the request of the petitioner was not considered and he was forced to participate in the Physical Efficiency Test. He further contends that petitioner could not clear the Physical Efficiency Test owing to his ill health and has abandoned the 800mtrs run test half way through. Thereafter, once again petitioner submitted a representation requesting to postpone the Physical Efficiency Test. Learned counsel for the petitioner further contends that the respondents have issued 5 different notifications for the posts of SCT SI (IT & Communication), SCT PC(Civil) & SCT ASI (Information & Technology) and SCT PC (IT & Communication) and conducted Physical Efficiency Test common to all the 5 different notifications which action of the respondents is illegal and arbitrary. Therefore, he contends that the respondents be directed to conduct different Physical Efficiency Tests in pursuance to the different notifications considering the case of the petitioner as a special case.

Learned Standing counsel appearing for the 1st respondent contends that the petitioner had participated in the 800 mtrs run test and having participated in the test, he cannot turn around and contend that he was suffering with viral fever on the day the test was conducted. He further submits that though the petitioner contended that he submitted a representation, the same was not enclosed to the

writ petition which would mean that petitioner had not submitted a representation seeking postponement of Physical Efficiency Test. He further contends that in cases where a representation is made by the candidates stating that they were not able to participate in the Physical Efficiency Test and sought for postponement of the same, the respondents have considered such cases and conducted the Physical Efficiency Test on other subsequent dates. In the instant case, no such request was made by the petitioner. Learned Standing counsel in reply to the contention of the petitioner that 5 different Physical Efficiency Tests should be conducted in pursuance to the 5 different notifications contends that the notification itself stipulates that only common Physical Efficiency Test would be conducted and if the petitioner is really aggrieved by the same, he ought to have challenged the said notification. He further contends that at this point of time, petitioner cannot contend that Physical Efficiency Test should be conducted separately in pursuance to the 5 different notifications issued by the respondents. Hence there are no merits in the writ petition and it is liable to be dismissed.

This Court, having considered the rival submissions of both the parties, is of the considered view that as the petitioner has failed to enclose the representation submitted by him to the respondents seeking postponement of the Physical Efficiency Test, to the writ petition, it is very difficult for this Court to believe the contention of the petitioner that he was suffering with fever on the day the Physical Efficiency Test was conducted. Petitioner having participated in the Physical Efficiency Test, cannot turn around and seek the respondents to conduct Physical Efficiency Test again. This Court is not inclined to entertain this writ petition and it is liable to be dismissed.

Accordingly, the writ petition is dismissed. There shall be no order as to costs.

Pending miscellaneous applications, if any, shall stand closed in consequence.

ABHINAND KUMAR SHAVILI,J

Date: 14.03.2019
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