

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2020

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.855 of 2020

K.Prabakaran

...Petitioner

Vs.

1. The Director General of Police,
No.1, Dr.Radhakrishna Salai,
Mylapore, Chennai - 600 004.

2. The Director of Medical Education,
Kilpauk, Chennai 600 010.

3. The Superintendent of Police,
District Police Office, Vellore Road, Vengikal,
Near Collector Office and District Court,
Thiruvannamalai District - 606 604

..Respondents

Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the orders passed by the 3rd respondent in Na.Ka.No.A2(3)/24400/479/2018 dated 31.10.2018 and No.A2(2)/18830/2019 dated 16.09.2019, quash the same and consequently, direct the respondents to select appoint petitioner in the post of Police Constable Grade II.

For Petitioner : M/s.D.Geetha

For Respondents : Mr.P.V.Selvakumar

Additional Government Pleader

O R D E R

This writ petition has been filed challenging the proceedings of the 3rd respondent dated 30.10.2018 and the subsequent proceedings dated 16.09.2019 and for a consequential direction to the respondents to appoint the petitioner in the post of Police Constable, Grade II.

2. The petitioner participated in the selection to the post of Police Constable, Grade II and he succeeded at every stage of selection. Ultimately, the petitioner was referred for Medical examination and the concerned Doctor had reported that the petitioner suffers from colour blindness. Recording the same, the Superintendent of Police, Thiruvannamalai, by his

proceedings dated 31.10.2018, had rejected the candidature of the petitioner. Liberty was also granted to the petitioner to file an Appeal before the Medical Board, within a period of three months along with all relevant documents.

3. The Medical Board was constituted on 25.06.2019 and the petitioner was directed to appear before the Medical Board. The petitioner appeared before the medical board and had submitted his medical certificates, which was given by the Government Eye Hospital, Egmore, Arvind Eye Hospital and also the report of the Sankara Nethralaya. In all these reports, it is found that the eye sight of the petitioner is normal in both the eyes. The petitioner does not suffer from any deficiency and much less with colour blindness.

4. The Medical Board on considering the appeal filed by the petitioner, has again rejected the Appeal on the ground that "Both eyes unfit due to Corneal Laser Procedure". This report was placed before the Superintendent of Police, Thiruvannamalai and the Superintendent of Police, Thiruvannamalai, by his proceedings dated 16.09.2019, by citing the report of the Medical Board rejected the appointment of the petitioner to the post of Police Constable, Grade II. Aggrieved by the same, the present writ petition has been filed before this Court.

5. M/s.D.Geetha, learned counsel appearing for the petitioner submitted that originally the rejection order was passed on the ground that the petitioner suffers from colour blindness. The petitioner in order to prove that he does not suffer from any deficiency in both the eyes, had submitted the certificates from the eye hospitals before the Medical Board. The learned counsel submitted that the Medical Board without considering the same has given a report which runs totally contrary to the earlier rejection order and the Medical Board has found as if the petitioner has undergone a Corneal Laser Procedure in both the eyes. The learned counsel submitted that this was not a ground on which the petitioner was originally rejected appointment.

6. Mr.P.V.Selva Kumar, learned Special Government Pleader appearing for the respondents submitted that the post requires a normal vision in both the eyes and therefore, the same is being strictly followed before any appointment is given to the candidate. The learned counsel submitted that the Medical Board has found that the petitioner is unfit due to Corneal Laser Procedure done in both the eyes. The learned counsel submitted that this is an expert opinion given by the medical board consisting of a team of Doctors and the respondent will have to

necessarily act upon the opinion. It was further submitted that this Court cannot sit on appeal against the opinion of the Medical Board and therefore, there are absolutely no grounds to interfere with the proceedings of the 3rd respondent in rejecting the appointment to the petitioner.

7. This Court has carefully considered the submissions made on either side and also perused the materials available on record.

8. It is an admitted case that the petitioner had participated in the selection to the post of Police constable Grade II and had succeeded in every stage. Ultimately, the petitioner was sent for Medical examination and in the medical examination, a report was given as if the petitioner suffers from colour blindness. This was informed to the petitioner by the Superintendent of Police, Thiruvannamalai and his appointment was rejected and liberty was also given to the petitioner to file an Appeal before the Medical Board. Accordingly, the petitioner also filed an Appeal before the Medical Board.

9. At this juncture, it will be relevant to place reliance upon the Medical certificates that have been filed in this Writ petition. The Assistant Surgeon of the Government Ophthalmic Hospital, Egmore, has given a Eye fitness certificate, stating that the field of vision, colour vision and fundus appearance of the petitioner are all normal and he is fit for appointment as Police Constable Grade II. There is yet another medical certificate, which has been issued by the Aravind Eye Hospital, Chennai. Even in this certificate, it is found that the eye sight of the petitioner is normal and there has been no ophthalmic intervention done to the petitioner. It will also be relevant to rely upon the medical certificate that was granted by the Sankara Nethralaya Eye Hospital. The certificate clearly shows that both the eyes are normal.

10. It is clear from the above medical certificates that the vision in both the eyes are normal and there has been no ophthalmic intervention to the eyes of the petitioner at any point of time. Even the report that has been placed before this Court by the learned Special Government Pleader shows that vision in both the eyes are perfectly normal in all respects. However, there is one observation made to the effect that a Corneal Laser Procedure has been done. It is not known on what basis this observation was made in the report. This was not even the reason that was assigned while the petitioner was initially examined by the doctor, who found the petitioner to be suffering

from colour blindness. This finding has absolutely no basis and it looks like a mechanical finding given by the Medical board. This Court is not convinced with the finding given by the Medical board, in the light of overwhelming materials available before this Court to show that the eye sight in both the eyes of the petitioner is absolutely normal. In fact, the same has been reiterated even by the Medical Board in its report.

11. In view of the above observation, there is absolutely no hesitation to interfere with the order passed by the 3rd respondent dated 31.10.2018 and 16.09.2019 and accordingly, the same is hereby set aside. The petitioner is directed to appear before the Director and Superintendent, Regional Institute of Ophthalmology and Government Ophthalmic Hospital, Egmore, within a period of one week from today and the authority shall examine the eyes of the petitioner and shall furnish a report of the 3rd respondent, within one week thereafter. The 3rd respondent based on the report given by the above said hospital, shall pass suitable orders, within a period of four weeks thereafter.

12. This writ petition is accordingly allowed with the above directions. No costs.

Sd/-

Assistant Registry(C.S.VIII)

/True Copy/

Sub Assistant Registrar

To

1. The Director General of Police,
No.1, Dr.Radhakrishna Salai,
Mylapore, Chennai - 600 004.
2. The Director of Medical Education,
Kilpauk, Chennai 600 010.
3. The Superintendent of Police,
District Police Office, Vellore Road, Vengaiikal,
Near Collector Office and District Court,
Thiruvannamalai District - 606 604
4. The Director and Superintendent,
Regional Institute of Ophthalmology and Government
Ophthalmic Hospital, Egmore

+1 cc to M/s.D.Geetha,Advocate Sr.No. 4124

AKM/24.01.2020/5P-6C /

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