



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2020

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.P. (MD) No.2741 of 2020 and

WMP(MD) Nos.2332 & 2335 of 2020

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M.Ravindran

....Petitioner

Vs

1. Tamil Nadu Uniform Service Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road,
Egmore,
Chennai - 600 008,
Rep by its Memmber Secretary

2. The Chairman,
Sub-Committee (TNUSRB)
Dindigul Cerntre,
Dindigul.

....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 relating to the undated impugned proceedings of the respondents published in the online portal against the petitioner, holding him as disqualified for the selection conducted towards the Common recruitment for the posts of Gr.II. Police Constable, Gr.II Jail Warder and Fireman 2019 and the consequential undated provisional selection list for Theni Centre candidates in so far as it does not contain the number of the petitioner (2704880) quash the same and issue a consequential direction to the respondents to include the name of the petitioner in the provisional selection list for character and antecedents verification and medical examination in the common recruitment for the posts of Gr.II Police Constable, Gr.II Jail Warder and Fireman 2019 and appoint the petitioner to any one of the posts of Gr.II.Police Constable, Gr.II Jail Warder and Fireman.

For Petitioner : Mr.N.Dilip Kumar

For Respondents : Mr.Chellapandian

Additional Advocate General

Assisted By Mr.K.Mu.Muthu

Additional Government Pleader

O R D E R

This Writ Petition is filed to quash the impugned proceedings of the respondents published in the online portal and further to direct the respondents to include the name of the petitioner in the provisional selection list for the posts of Gr.II.Police Constable, Gr.II Jail Warder and Fireman 2019.



2. The learned Additional Advocate General, assisted by the learned Government Advocate takes notice on behalf of the respondents. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

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3. The case of the petitioner is that he belongs to the Scheduled Caste and has applied for the post of Grade II Constable, Grade II, Jail Warders and Firemen, under the sports category, in the Tamil Nadu Uniformed Services Recruitment Board 2019. The Notification prescribes that "Atheletics" is also one of the category out of 15 categories of sports mentioned, for which the candidate should have obtained the necessary certificate in Form I/II/III issued by the competent authority. As per the norms mentioned in the Notification, he has also obtained Form III dated 23.01.2018 from the Director of Physical Education of Periyar University. He got qualified in the written examination and physical endurance test. Thereafter, he was directed to appear for certificate verification by the second respondent on 18.11.2019, subsequently reprogrammed to 20.11.2019. In the meantime, on 26.07.2019, he lost his father due to a road accident. During the ceremonial whitewashing of his house, Form III issued by the Director of Physical Education, Periyar University had been misplaced/lost. By following the procedure, he obtained the certified copy of the original sports certificate, which he lost earlier and submitted the same to the second respondent on 11.12.2019. In these circumstances, provisional selection list was published by the respondent, in which, the petitioner's name was not found, due to the non-submission of Original Form III, during certificate verification. The reason for non-submission of Original Form III was beyond his control. Hence, the petitioner submitted his representation on 06.01.2020. Since no action has been taken by the respondents, the petitioner is before this Court with this present Writ Petition.

4. The learned counsel for the petitioner submitted that due to the unavoidable situation, the certificate got misplaced and later the same was submitted before the respondents. Further, the learned counsel relied upon the judgment of our Honourable Apex Court in **(2005) 9 Supreme Court Cases 779 (Dolly Chhanda Vs Chairman, Jee and others)** and as well as the order of this Court in W.P(MD)No.18200 of 2017, dated 18.07.2017 **(G.Gnanavel Vs. The Director General of Police and others)**.

5. The issue involved in this writ petition is covered by the Judgment of our Honourable Apex Court in **(2005) 9 Supreme Court Cases 779 (Dolly Chhanda Vs Chairman, Jee and others)** and the same has been followed in the order of this Court in W.P(MD)



No.18200 of 2017, dated 18.07.2017 (**G.Gnanavel Vs. The Director General of Police and others**), wherein it has been held as follows:

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7. The fact is not disputed by the learned Senior counsel that, the candidates, who had secured 48 marks were selected. The Writ petitioner has secured 49 marks, which is higher than the cut off marks of 48. Thus, the Writ petitioner has secured higher marks than that of the selected candidate. On these facts, this Court has to consider the question whether the non-enclosure of the community certificate by the writ petitioner as per the instructions in the application, will dis-entitle him from selection.
8. The learned Additional Advocate General is correct to the extent that the candidates who have submitted their application should be totally conscious while enclosing the required documents. One cannot dispute the proposition. But since the writ petitioner in column 6 of the application has clearly mentioned that he belongs to MBC. Though he filed the application that he belongs to MBC community, he had failed to enclosed the Community Certificate. Thus, it is an omission on the part of the writ petitioner. This court has to adopt a pragmatic view in this regard, considering various aspects.
9. At this juncture, it is useful to cite the judgment of the Supreme Court of India in the case of Dolly Chhanda Vs. Chairman reported in (2005) 9 SCC 799, his Lordship G.P.Mathur, delivered the judgment while speaking for the Bench, elaborated in paragraph 7 as under:
The general rule is that while applying for any course of study or a post, a person must possess the eligibility qualification on the last date fixed for such purpose either in the admission brochure or in application form, as the case may be, unless there is an express provision to the contrary. There can be no relaxation in this regard ie. In the matter of holding the requisite eligibility qualification by the date fixed. This has to be established by producing the necessary certificate, degrees or mark sheets. Similarly, in order to avail of the benefit of reservation or weightage, etc., necessary certificates have to be produced. These are documents in the nature of proof of holding of particular qualification



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or percentage of marks secured or entitlement to benefit or reservation. Depending upon the facts of a case, there can be some relaxation in the matter of submission of proof and it will not be proper to apply any rigid principle as it pertains in the domain of procedure. Every infraction of the rule relating to submission of proof need not necessarily result in rejection of candidate.

6. The above facts are applicable to the present case on hand. Hence, following the same, the respondents are hereby directed to reconsider the issue and pass fresh orders, in accordance with law.

7. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

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To

1. The Member Secretary,
Tamil Nadu Uniform Service Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road,
Egmore,
Chennai - 600 008.

2. The Chairman,
Sub-Committee (TNUSRB)
Dindigul Cerntrre,
Dindigul.

+1 CC to Mr.N.DILIP KUMAR, Advocate (SR-12335[F] dated 18/03/2020)

+1 CC to SPL.GP (SR-12482[F] dated 19/03/2020

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