



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2020

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.P. (MD) No.2852 of 2020 and
WMP(MD) Nos.2417 & 2418 of 2020

M.Nallan

... Petitioner

Vs

1. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road,
Egmore,
Chennai - 600 008.

2. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Recruitment Sub-Committee,
Virudhunagar Centre,
Virudhunagar.

... 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 order in the petitioner's user ID in USRB296760 passed by the first respondent and quash the same as illegal and consequently direct the respondents to allow the petitioner to participate in the further selection process for the post of Grade II constable, Grade II Jail Warders and Firemen in the Tamil Nadu Uniformed Services Recruitment Board 2019.

For Petitioner : Mr.R.Venkatesan

For Respondents : Mr.K.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 order in the petitioner's user ID and to direct the respondents to allow the petitioner to participate in the further selection process to be held by the Tamil Nadu Uniformed Services Recruitment Board 2019.

2. The learned Additional Advocate General, assisted by the
<https://hcservices.ecourts.gov.in/hcservices/>



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.

3. The case of the petitioner is that he belongs to the Scheduled Caste Arunthathiar (SCA) and has applied for the post of Grade II Constable, Grade II Jail Warders and Firemen in the Tamil Nadu Uniformed Services Recruitment Board 2019. He got qualified in written examination as well as the physical test. The process of Certificate verification also been completed. Later on, it was informed by the respondent that the petitioner's community status was not mentioned in the certificate verification. Hence, the petitioner went to the 1st respondent's office and produced all relevant records. According to the petitioner, he and 9 others are the children of Mariyappan and Muniyammal and as his father's brother has no children, he adopted the petitioner and his brother Chellaiah. The grievance of the petitioner is that without considering the facts, the respondent has passed the impugned order disqualifying the petitioner from selection. Hence, the petitioner is before this Court with this Writ Petition.

4. The learned counsel for the petitioner submitted that 15 marks obtained by the petitioner for physical test was not considered by the respondent and the total score of the petitioner was mentioned as 50 only. The cut off marks fixed for the SCA category was 64, whereas he secured 65 marks. 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:

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 disentitle him from selection.



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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 i.e. 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 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 ()

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Sub Assistant Registrar (CS)

To

1. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road,
Egmore,
Chennai - 600 008.

2. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Recruitment Sub-Committee,
Virudhunagar Centre,
Virudhunagar.

+1 CC to M/s.R.VENGADESAN, Advocate (SR-12382[F] dated 18/03/2020)

+1 CC to M/s.SPL.GP (SR-12479[F] dated 19/03/2020)

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SPU (09.07.2020) 4P-5C