



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2020

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.P.(MD) No.3990 of 2020 and

WMP(MD) No.3388 of 2020

WEB COPY

Mrs. Sakunthala

Petitioner

Vs

1. The Chairman,
Tamil Nadu Uniformed Service Recruitment Board,
807, 2nd Floor, Anna Salai,
Chennai -600 002.

2. The Superintendent of Police,
Tenkasi,
Tenkasi District.

Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the respondents to permit the petitioner to participate in the further selection process conducted by the respondents in the combined Recruitment of Grade II Police Constable (Men, Women & Transgender) Grade II Jail Warder (Men & Women) and Fireman for the year 2019 by allotting an alternative date for the physical test for measurement, efficiency and endurance or permit the petitioner to participate in the future recruitment by relaxing the upper age limit for the petitioner.

For Petitioner : Mr.R.J.Karthick
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 direct the respondents to permit the petitioner to participate in the further selection process conducted by the respondents in the combined Recruitment of Grade II Police Constable (Men, Women & Transgender) Grade II Jail Warder (Men & Women) and Fireman for the year 2019.

2. Mr.K.Chellapandian, Additional Advocate General,
assisted by Mr.K.Mu.Muthu, Additional Government Pleader takes
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notice for the respondents. By consent of both parties, this Writ Petition is taken up for final hearing at the stage of admission itself.

3. The case of the petitioner is that she has applied for the post of Grade II Police Constable, Grade II Jail Warder and Fireman 2019 conducted by Tamil Nadu Uniformed Service Recruitment Board and appeared for written examination and she had succeeded. Subsequent to that, the petitioner could not attend the physical Efficiency test due to her advanced stage of pregnancy. The petitioner belongs to MBC Community and maximum age prescribed for the selection process was fixed as 26 years. As this is the last chance for the petitioner to join in the service, she had made a representation to the respondents on 02.01.2020, to permit the petitioner to participate in the Physical Efficiency Test scheduled to be conducted on or after February 2020. As there is no response from the respondents, the petitioner has preferred this Writ Petition.

4. The issue involved in this Writ Petition is covered by the order of Division Bench of **Rajasthan High Court in Civil Writ Petition No.18808 of 2015 (Laxmi Devi Vs. State of Rajasthan,** wherein it was held as follows:-

At the outset, it may be noticed that the married woman is not disqualified for appointment and the fact that she is pregnant (14 of 19) (CS 18808/2015) in itself is not a disqualification for participating in the selection process nor the pregnancy can be treated as a bar for appointment under the scheme of Rules, 1960/1989 respectively. What is to be looked into is that if any unforeseen inability occurs because of pregnancy during the months before and after child birth while seeking employment or while in service which can be taken care of by granting maternity leave for the period required or because of service hazards one has to qualify with the standards of Physical Efficiency Test/Physical Standard Test how far the right of seeking public employment of a woman candidate, for which she is eligible, can be denied to her.

To become a mother is the most natural phenomenon in the life of a woman. An employer has to be considerate and sympathetic towards her and must realize the physical difficulties which a woman would face at the advanced stage of her pregnancy to perform her duties while carrying a baby in the womb or while rearing up the child after birth and this what has been taken note of by the Parliament in its wisdom while enacting the Maternity Benefit Act, 1961. The object behind is to provide all the facilities to a woman in a dignified manners so that she may overcome the state of motherhood honourably, peaceably, undeterred by the fear of



being victimized for forced absence during the pre-or-post-natal period.

Apart from the Art.14 & 16 of the Constitution, which protects rights of the individual citizen, discriminatory treatment of a pregnant woman would also fall four or Art.42 of the (CW 18808/2015) Constitution which requires the State to make provision for securing just and humane conditions of work and for maternity relief and any action denying maternity benefit has to be examined on the anvil of Art.42 which though not enforceable by law is not available for determining the legal efficacy of the action being complained of.

It may be noticed that pregnancy is not a disability but is one of the natural consequence of marriage and any distinction made on the ground of pregnancy be always held to be arbitrary and violative of Art 14.of the Constitution

5.Following the same and considering the facts and circumstances of the case and also taking into account that this is the last chance for the petitioner to join in service, this Court is inclined to pass the following order:

- i.The respondents are directed to dispose of the representation of the petitioner dated 02.01.2020, in the light of the orders passed in Civil Writ Petition No.18808 of 2015.
- ii.Such exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

6. With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vrn

To

1. The Chairman,
Tamil Nadu Uniformed Service Recruitment Board,
807, 2nd Floor, Anna Salai,
Chennai -600 002.



2. The Superintendent of Police,
Tenkasi,
Tenkasi District.

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+1 CC to M/s.SPL.GP (SR-12474[F] dated 19/03/2020)

W.P. (MD) No.3990 of 2020 and
WMP (MD) No.3388 of 2020
18.03.2020

vr (CO)
TR(10.07.2020) 4P 4C