



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.03.2020

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. (MD) No.5115 of 2020

V.Kannan

... Petitioners

Vs.

1.The Director General of Police,
Office of the Director General of Police,
Beach Road, Chennai.

2.The Superintendent of Police,
Office of the Superintendent of Police,
Virudhunagar District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to constitute re-medical board to test the fitness of my eyes and to consequently direct the respondents to appoint the petitioner as Constable Grade-II(AR) under the respondents within the time stipulated by this Court.

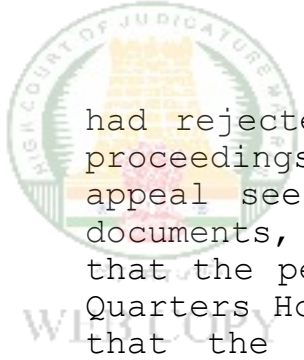
For petitioners : Mr.S.Malaikani

For respondents : Mr.K.Mu.Muthu,
Additional Government Pleader.

ORDER

This writ petition has been filed to direct the respondents to conduct retest by constituting another medical board in respect of fitness of the petitioner's eyes and to consequently direct the respondents to appoint the petitioner as Constable Grade-II (AR) under the respondents within a stipulated time.

2.The learned counsel for the petitioner submitted that the petitioner had participated in the common recruitment for the post of Police Constable Grade II (AR), Jail Warden and Firemen - 2017-2018, conducted by the respondents and he succeeded at every stage of selection. Ultimately, the petitioner was referred for medical examination. In the medical examination, it was found that the petitioner suffers from Colour Blindness in both the eyes and hence, he was declared as unfit. Recording the same, the Superintendent of Police, Virudhunagar District, by his proceedings dated 20.11.2018,



had rejected the candidature of the petitioner. In the very same proceedings, liberty was also granted to the petitioner to file an appeal seeking to conduct a second test, along with all relevant documents, within a period of three months. He would further submit that the petitioner voluntarily went to eye test at Government Head Quarters Hospital, Trivellur, where a Doctor has given a certificate that the petitioner is fit for the job. Based on the said certificate, the petitioner has preferred an appeal by way of representation dated 09.01.2019 for re-test by constituting another medical board before the 2nd respondent. The 2nd respondent in turn forwarded the same to the first respondent. But, till date, the said appeal is pending without any progress.

3. The learned counsel appearing for the petitioner further submitted that in the meantime, the petitioner appeared in the next selection conducted in the year 2019, but he was not selected and now he attained overage to the said post. The grievance of the petitioner is that if the respondents conducted retest, based on the appeal dated 09.01.2019 submitted by him, he would have been appointed in the batch of the year 2017-2018 itself. Due to inaction on the part of the respondents in sending the petitioner for retest based on his appeal dated 09.01.2019, he has been suffering without job. Thus, he prayed to direct the respondents to conduct retest in the eyes of the petitioner and to appoint him as Constable Grade II (AR).

4. The learned Additional Government Pleader appearing for the respondents submitted that the post requires a normal as well as colour vision in both the eyes and therefore, the same is being strictly followed before any appointment is given to the candidate. The Medical Board has found that the petitioner is unfit due to colour blindness in both the eyes. This is an expert opinion given by the medical board consisting of a team of Doctors and the respondents will have to necessarily act upon the opinion. He would further submit that after receipt of the appeal dated 09.01.2019, the second respondent forwarded the said appeal to the first respondent. The first respondent respondent would consider the case of the petitioner as early as possible.

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

6. 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, Virudhunagar and his appointment was rejected and liberty was also given to the petitioner to file an Appeal for retest. Accordingly, the petitioner has also filed an appeal before the second respondent for retest.



7. It is seen that a Doctor, who was working at Government Head Quarters Hospital, Tirunelveli, gave a certificate in favour of the petitioner to the effect that the vision of the petitioner is normal and his colour vision is partially normal and that the petitioner is fit for the job. Relying upon the said Medical Certificate, the petitioner wanted to conduct a retest. It is also seen that the appeal filed by the petitioner before the second respondent was forwarded to the first respondent and it is pending with the first respondent without any progress.

8. In view of the above, the first respondent is directed to send the petitioner before another Medical Board to test the fitness of the eyes of the petitioner and to consider him for appointment based on the said report and to pass orders on merits and in accordance with law. The above said exercise shall be completed by the first respondent within a period of eight weeks from the date of receipt of a copy of this order.

9. This Writ Petition stands disposed of accordingly. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

1. The Director General of Police,
Office of the Director General of Police,
Beach Road, Chennai.

2. The Superintendent of Police,
Office of the Superintendent of Police,
Virudhunagar District.

+1 CC to M/s.S.MALAIKANI, Advocate (SR-11877[F] dated 16/03/2020)

+1 CC to M/s.Special Government Pleader (SR-12253[F] dated
18/03/2020)

W.P. (MD) No.5115 of 2020
16.03.2020