



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.07.2020

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.6474 of 2020

and

W.M.P. (MD) No.5494 to 5496, 6196 of 2020

(Through Video conferencing)

WEB COPY

S.Tamilarasan

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

...Respondents

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records relating to final provisional selection list published by the respondents dated 04.02.2020 and quash the same as illegal and consequently direct the respondents to conduct a fresh physical examination for all the candidates for the post of Gr-II Police Constable, Gr.II Jail Warder and Fireman 2019, as per the Notification in Advertisement No.1/2019 dated 06.03.2019.

For Petitioner : Mr.J.Jeyakumaran

For Respondents : Mr.K.Chellapandian, AAG assisted by
Mr.K.Mu.Muthu, AGP

ORDER

The prayer in this writ petition is for a writ of Certiorarified Mandamus, to call for the records relating to final provisional selection list published by the respondents dated 04.02.2020 and quash the same as illegal and consequently direct the respondents to conduct a fresh physical examination for all the candidates for the post of Gr-II Police Constable, Gr.II Jail Warder and Fireman 2019, as per the Notification in Advertisement No.1/2019 dated 06.03.2019.



2.The short facts, leading to filing of this writ petition, are as follows:

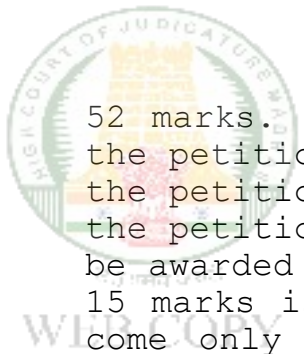
The petitioner was one of the candidate participated in the recruitment process for selection of Police Constable Grade II of the year 2019. After having passed in the written examination and obtained 52 marks, he was directed to appear on 07.11.2019 for physical test, where, he participated various events and on 19.11.2019, he was directed to participate in yet another physical test called robe climbing, where, including the petitioner, totally 15 candidates participated. In this context, it is the grievance of the petitioner that on the particular day, when the petitioner was instructed to participate in the robe climbing event, it was a rainy day, because of which, he could not achieve the target since it was a disadvantageous position. Whereas, in respect of others, a non rainy day was given. The days on which, they are participated in other districts, those days were non rainy days. Therefore, they could not have any disadvantageous position and in order to have the similar platform to have an equal competence among the participants, the petitioner seeks indulgence of this Court by providing yet another opportunity to the petitioner to successfully undertake the physical exercise such as robe climbing etc. in order to get more marks, so that he could come to the zone of consideration for selection and therefore, on this ground, the selection process undertaken by the respondent are under challenge, according to the petitioner herein.

3.I have heard the learned counsel appearing for the petitioner who has reiterated the said contention of the petitioner and projected the case as if that, if the second chance is given to the petitioner to have the physical exercise, he could go through to get more marks to reach the zone of selection for the said recruitment.

4.However, the learned Additional Advocate General appearing for the respondents, by relying upon para 7 of the counter affidavit and after getting written instructions in this regard, would submit that on 07.11.2019, 15 persons including the petitioners were directed to appear for physical exercise, where 12 out of 15 candidates were able to complete the robe climbing to the expected level. Out of 15, only one candidate was disqualified. Insofar as the petitioner is concerned, he was able to climb only 5 metres, accordingly, he was awarded one star i.e. two marks.

5.It is further submitted by the learned Additional Advocate General that, equal opportunity was given to all the 15 candidates, who participated in the physical examination on that day. Therefore, the petitioner cannot claim that he has been singled out as if he was instructed to do the exercise of robe climbing on a rainy day.

6.Be that as it may, the learned Additional Advocate General submitted, in written examination, the petitioner obtained



52 marks. If the entire physical exercise is successfully done by the petitioner, the maximum mark awardable is only 15, out of which, the petitioner was able to get 6 marks as of now. Assuming that, if the petitioner is able to get the entire 15 marks, which maximum can be awarded to a candidate for physical exercise, even though, if the 15 marks is added with the written examination mark of 52, it will come only 67 marks, whereas, the cut of mark to the category of M.B.C (PSTM), where the petitioner's candidature falls, is 69 marks. Therefore, the petitioner could not come to the zone of selection. Therefore, by making this submission, the learned Additional Advocate General would submit that, the plea raised by the petitioner and the prayer sought for by the petitioner is totally without any basis and cannot be countenanced and the writ petition deserves to be dismissed.

7.I have considered the submissions made by the learned counsel appearing for the petitioner as well as the learned Additional Advocate General assisted by the learned Additional Government Pleader appearing for the respondent and also have perused the materials placed before this Court.

8.As has been rightly pointed out by the learned Additional Advocate General appearing for the respondents, the petitioner was one among the 15 candidates on a particular day, who were instructed to go for physical exercise and 12 out of 15 candidates have successfully cleared including the petitioner, who was able to climb only 5 metres. Depending upon the height, he climbed, he was awarded two marks i.e., one star. Only one person out of 15 was disqualified, that means, all the remaining 14 candidates were not disqualified and 12 out of remaining 14 candidates were successfully have robe climbed and marks were obtained.

9.Insofar as the marks obtained by the petitioner is concerned, he was able to get only 6 out of 15 awardable for physical exercise. Therefore, from the said factors, it cannot be construed that the petitioner alone has been singled out on a particular day i.e. rainy day and that have become disadvantageous for the petitioner to have the complete robe climbing to get the full marks. Assuming that, if the petitioner is given second chance, and if he gets full marks, he would not come under the zone of selection, because, this position has been very clearly explained by the learned Additional Advocate General that, the maximum marks awardable for a candidate who participated in physical exercise is only 15. Assuming that the petitioner is able to get all the 15 marks i.e., maximum marks for physical exercise and that marks is added with the written examination marks of 52 obtained by the petitioner, he would get only 67 marks, whereas, the cut off marks to the category of M.B.C. is 69 marks. Therefore, even then the petitioner cannot come nearer to zone of consideration and he is clearly out of zone of consideration in that category. Therefore, these factors clearly

<https://hcmjcs.ejctsa.gov.in/Hcmjcs/> petitioner has made a vain attempt before this Court



with this writ petition. Therefore, the prayer sought for by the petitioner cannot be accepted and the writ of mandamus as has been sought for cannot be issued by this Court.

10.For all these reasons stated above as well as the factual matrix, which has been clearly demonstrated by the learned Additional Advocate General, this Court is not inclined to accept the prayer sought for herein.

11.Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar ()

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Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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

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

Order made in
W.P. (MD)No.6474 of 2020
22.07.2020

SPU(12.08.2020) 4P 3C