



WEB COPY

W.A(MD)No.628 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:26.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.A(MD)No.628 of 2020

in

C.M.P. (MD)No. 3973 of 2020

Against WP(MD)No.2959 of 2020

C.Sowmiya

... Appellant/Petitioner

Vs.

1.The Chairman,

Tamil Nadu Uniformed Services Recruitment Board,  
Old Commissioner of Police Office Campus,  
Pantheon Road,  
Egmore,  
Chennai-08.

2.The Chairman,

Recruitment Sub-Committee,  
Tamil Nadu Uniformed Services Recruitment Board,  
Madurai Centre,  
Madurai.

... Respondents/Respondents

**Prayer:** Writ Appeal filed under Clause 15 of Letters Patent against the order passed by this Court dated 18.03.2020, passed in W.P. (MD) No.2959 of 2020.

Prayer in WP(MD). 2959 of 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to direct the respondent to allow the petitioner (Enrolment Number 7401903) to participate in the further selection process for the post of Grade II Constable, Grade II Jail Warders and Firemen in the Tamilnadu Uniformed Services Recruitment Board 2019.

For Appellant

: Mr.R.Venkatesan

For Respondents

: Mr.K.Chella Pandian

Additional Advocate General  
assisted by

Mr.M.Muthugeethaiyan

Special Govt. Pleader



**JUDGMENT**

(Judgment of the Court was made by **M.SATHYANARAYANAN, J.**)

The appellant is the writ petitioner. She filed W.P.(MD) No.2959 of 2020, praying for issuance of writ of mandamus, directing the respondents to allow her to participate in the further selection process for the post of Grade-II Constable, Grade-II Jail Warders and Fireman in Tamil Nadu Uniformed Services Recruitment Board, 2019. The writ petition came to be dismissed, after contest, vide impugned order dated 18.03.2020. Making a challenge to the said order, she has filed the present writ appeal.

2.The appellant/writ petitioner had applied for the post of Grade II Police Constable and allied services in respect of the selection process done by the Tamil Nadu Uniformed Services Recruitment Board, 2019 and she has successfully cleared written test, physical measurement test, Endurance test and Physical Efficiency test and she was called for certificate verification and in the certificate verification, her communal status has been erroneously put up by the officials and subsequently, it was also rectified.

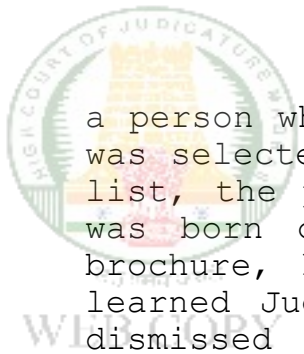
3.According to the petitioner, over all, she secured 49 marks and despite she comes within the zone of consideration, in the light of the said cut off marks, her name did not find place in the selection process and hence, she has filed the writ petition.

4.The respondent has filed a counter affidavit, wherein, they placed heavy reliance upon paragraph No.XXI of the notification issued by the Tamil Nadu Uniformed Services Recruitment Board and para No.19(a) of the information brochure and made a submission that if very many BC candidates securing the same marks, the age criteria has been taken into consideration and accordingly, the petitioner had gone beyond the zone of consideration and as such, she was not selected. The learned Judge, by taking note of the contents of the brochure as well as the factual aspect, found that the case of the petitioner do not reserve consideration and accordingly, dismissed the writ petition and hence, this writ appeal has been preferred.

5.Mr.R.Venkatesan, learned counsel appearing for the appellant/writ petitioner has invited the attention of this Court to the proviso (2) to Section 7 of Tamil Nadu Government Servants (Conditions of Service) Act, 2016 and would submit that the said Act governs the service conditions of all government employees and the 2<sup>nd</sup> proviso to Section 7 of the above Act has not at all been applied in the case of the petitioner and hence, prays for interference.

6.Per contra, Mr.K.Chella Pandian, learned Additional Advocate General, assisted by the official respondents would submit

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a person who secured 49 marks and acquired the rank bearing No.2328 was selected and she was born on 14.02.2000 and as per the age wise list, the petitioner has acquired the rank bearing No.2359 and she was born on 31.12.2000 and by strictly applying the information brochure, her name for selection could not be considered and the learned Judge has also taken note of the said aspect and rightly dismissed the writ petition and prays for dismissal of the writ appeal.

7.This Court has carefully considered the rival submissions and also perused the materials available on record carefully.

8.Admittedly, the writ petitioner has participated in the selection process, as per the terms and conditions of the brochure. It is well-settled position of law that having participated in the selection process, it is not open to a candidate to make a challenge to the contents of the brochure. It is also relevant to extract paragraph No.19(a) of the brochure.

**Para No.19(a) of Final Provisional selection**

**list:**

i)Provisional select list is drawn based on the total marks obtained in the written examination, Physical Efficiency Test, Viva-Voce and Special marks subject to communal reservation and total vacancies.

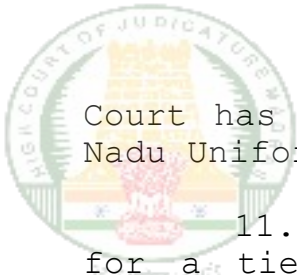
ii)If there is a tie in marks, the candidate senior in age shall be given priority in selection.

iii)If the marks secured are equal, preference shall be given to the candidate who is an outstanding scout, having received an award from the President of India.

iv)20% of all vacancies shall be set apart on preferential basis for the persons who studied graduation in Tamil Medium."

9.Though the learned counsel appearing for the appellant places heavy reliance upon Section 7(2) of Tamil Nadu Government Servants (Conditions of Service) Act, 2016, the said proviso do not deal with the aspect of the candidate belong to a particular community. If very many candidates belong to the same community securing the same marks, a candidate who is senior in age shall be given priority in selection, according to the terms and conditions of the brochure and it is not open to her to resile from the same.

10.The learned Additional Advocate General also places reliance upon an unreported order dated **17.02.2016 passed in W.P. (MD).No.3509 of 2016 (M.Jeganathan vs. Secretary, Home (Police) Department, Chennai-9 and two others)**, wherein, when the similar issue came up for consideration, the Honourable First Bench of this



Court has upheld the contentions put forth on behalf of the Tamil Nadu Uniformed Service Recruitment Board.

11.Paragraph No.19(a) of the information brochure provides for a tie-breaker mechanism. It is not even the case of the appellant/writ petitioner that it is not properly followed. The person, who belongs to BC category securing the same marks, elder than the petitioner, by adopting the tie-breaker method could be selected cannot be faulted with. This Court, on an independent assessment of materials, found that there is no error apparent in the order passed by the learned Single Judge dismissing the writ petition and also finds no merits in the writ appeal.

12.In the result, this writ appeal is dismissed, confirming the order dated 18.03.2020, passed in W.P.(MD)No.2959 of 2020. Consequently, connected miscellaneous petition is also dismissed. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)

vs

**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.

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Old Commissioner of Police Office Campus,  
Pantheon Road,Egmore,Chennai-08.

2.The Chairman,  
Recruitment Sub-Committee,  
Tamil Nadu Uniformed Services Recruitment Board,  
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+1 CC to M/s.GP ( SR-15118[F] dated 27/08/2020 )

**W.A(MD)No.628 of 2020**

**in**

**C.M.P. (MD)No. 3973 of 2020**

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**AP(08/09/2020) 4P 4C**

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