



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.09.2020

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.12296 of 2020

and

W.M.P. (MD)Nos.10543 to 10545 of 2020

S.Tamilarasan

...Petitioner

-Vs-

1.The Chairman,

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

2.The Member Secretary,

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

...Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the entire records pertaining to the impugned provisional selection list dated 04.02.2020 for Sivaganga District for the post of Grade-II Police Constable, Grade-II Jail Warden and Fireman, 2019 covered under the Notification No.1/2019, dated 06.03.2019 and consequently, direct the respondents to add the the petitioner's sports certificate and award the special marks meant for special category and to direct the respondents to include the petitioner's name in the select list issued on 04.02.2020 and to issue appointment order in favour of the petitioner.

For Petitioner : Mr.A.Kannan
For Respondents : Mr.K.Chellapandian,
Additional Advocate General,
assisted by Mr.K.Mu.Muthu,
Additional Government Pleader.

ORDER

The prayer sought for herein is for a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the impugned provisional selection list dated 04.02.2020 for Sivaganga District



for the post of Grade-II Police Constable, Grade-II Jail Warden and Fireman, 2019 covered under the Notification No.1/2019, dated 06.03.2019 and consequently, direct the respondents to add the petitioner's sports certificate and award the special marks meant for special category and to direct the respondents to include the petitioner's name in the select list issued on 04.02.2020 and to issue appointment order in favour of the petitioner.

2.Heard Mr.A.Kannan, learned counsel appearing for the petitioner and Mr.K.Chellapandian, learned Additional Advocate General, assisted by Mr.K.Mu.Muthu, learned Additional Government Pleader, who takes notice on behalf of the respondents.

3.With the consent of the learned counsel appearing on either side, this Writ Petition is taken up for final hearing and disposed of at the admission stage itself.

4.The petitioner was one of the candidates participated in the recruitment process for selection of Police Constable Grade-II of the year 2019. He passed in the written examination and obtained 52 marks, then he appeared on 07.11.2019 for physical test, where he participated at various events and on 19.11.2019, he was directed to participate yet another physical test i.e., rope climbing, where including the petitioner totally, 15 candidates participated. In this context, the petitioner got grievance that on the particular date, the petitioner was directed to participate in the rope climbing, since it was rainy day, he was not able to achieve the target. Therefore, he wanted physical test once again in some other day. In this context, he filed a Writ Petition in W.P.(MD)No.6474 of 2020. In the said Writ Petition, after hearing both the petitioner as well as the respondents, this Court has passed an order on 22.07.2020. In order to appreciate the same, the relevant portion of the order is extracted hereunder:-

"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 make that, the 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."

5. At this juncture, the present Writ Petition has been filed with the aforesaid prayer.

6. Straight away, the learned counsel appearing for the petitioner would submit that the petitioner had participated some State Level Sports events and obtained certificates having participated in the State Level and if that is taken into account, the petitioner would be eligible to get some more marks. This aspect since has not been insisted upon by the petitioner, at the earlier occasion, that Writ Petition has been dismissed on merits.



For the petitioner in order to get additional marks for his sports events by taking into account that he has been working in Home Guard Service for some years, the respondents can award more marks to him and accordingly, he may get a chance of entering into the zone of consideration.

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7.In this context, the learned counsel appearing for the petitioner would also submit that the petitioner is already over aged to the qualification, therefore, he cannot participate in the next year notification or next year selection process also. Therefore, since this is the last chance for the petitioner, his candidature may be considered for awarding more marks for the petitioner having participated in the sports competition.

8.In this context, the learned counsel appearing for the petitioner would also submit that since the selection of the year 2019 has already been made, unless and until the selection list is challenged, the petitioner cannot seek the present remedy. Therefore, for that purpose, he has challenged the selection list.

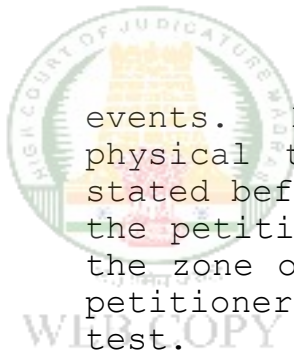
9.At the outset, I am not impressed with the said move of the petitioner, as he has already filed Writ Petition, where he raised the issue that has been considered and decided by this Court by passing order and the relevant portion has already been extracted above.

10.It is to be noted that assuming that entire full marks i.e., 15 marks awardable to every candidates to the maximum, is given, even in that case, the petitioner would not come nearer to the zone of consideration, as he belongs to MBC category and cut off marks for the category is 69 marks and he will get only 67 marks. Therefore, on that presumption, this Court has rejected the earlier plea of the petitioner.

11.The present plea of the petitioner is that if the entire 15 marks is given, he will get only 67 marks and for the remaining two marks, he may get it because of two sports competition, where he participated, for which he submitted certificates. Therefore, if two marks is also awarded to him, he would reach the zone of consideration for MBC quota. Hence, he filed the present Writ Petition.

12.In this context, Mr.K.Chellapandian, learned Additional Advocate General appearing for the respondents has pointed out that in the very same application filled up by the petitioner, there is a column called 'Would you like to avail Sports Quota? (வினையாடிற்கான இடஒதுக்கீட்டுப் பயனைப் பெற விரும்புகிறீரா?)'. For the said column, the petitioner has firmly stated 'NO'.

13.Pointing out this, the learned Additional Advocate General would submit that, he never opted to even for seeking consideration of the respondents about his sports certificates. Therefore, off-late he cannot turn around and claim anything on that ground for



events. Moreover, the petitioner did not get full marks in the physical test i.e., 15 marks. Only for arguments sake, it was stated before this Court in earlier round of litigation that even if the petitioner is eligible to entire 15 marks, he would not come to the zone of consideration. That has been wrongly understood by the petitioner that he would get definitely 15 marks in the physical test.

14.In fact his plea to have the physical test has been rejected by this Court in the order dated 22.07.2020. Therefore, the question of full marks in the physical test in respect of the petitioner does not arise. When that being so, adding two marks for the alleged sports certificate is also a myth in the mind of the petitioner and therefore, for all these reasons, the plea raised by the petitioner and the relief sought for herein cannot be considered. Therefore, this Writ Petition is liable to be rejected.

15.In the result, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-II)

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/ /2021

Sub Assistant Registrar(CS)

Myr

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 (TNUSRB),
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore, Chennai-600 008.

2.The Member Secretary,

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

+1cc to SPL GP SR.No.17826

Order made in

W.P. (MD) No.12296 of 2020

22.09.2020

VB (07.01.2021) 5P 4C