



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.07.2020

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.A(MD)No.1386 of 2017

and

C.M.P(MD)No.9961 of 2017

G.Vigneshkumar

... Appellant/Writ 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 Chairman,

Recruitment Sub-Committee,
Madurai Centre &
The Deputy Inspector General of Police,
Madurai Range,
Madurai.

... Respondents/Respondents

Prayer in WA(MD)No.1386 of 2017 : Appeal filed under Clause 15 of the Letters Patent against the order passed by this Court in W.P (MD)No.15311 of 2017, dated 21.08.2017.

Prayer in WP(MD). 15311 of 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus to call for the records pertaining to the impugned order dated 29.07.2017 in C.No.R2/150/2017 passed by the 2nd respondent and quash the same as illegal and consequently direct the respondents to conduct a fresh physical measurement test for the petitioner (Enrolment No.2413841) for the Post of Grade-II constable, Grade II Jail Warders and Firemen in the Tamil Nadu Uniformed Services Recruitment Board 2017.

For Appellant : Mr.R.Venkatesan

For Respondents : Mr.K.Chellapandian
Additional Advocate General
assisted by
Mr.Aayiram K.Selvakumar
Additional Government Pleader



JUDGMENT

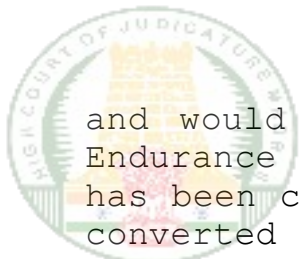
(Judgment of the Court was delivered by **M. SATHYANARAYANAN, J.**)

The petitioner applied for the post of Grade - II Police Constables / Grade - II Jail Warders / Fireman for the recruitment done in the year 2017. The application submitted by the petitioner was found in order and therefore, he was called for the written examination and he has cleared it also and therefore, called for physical endurance test. It is the case of the petitioner that in the physical endurance test held on 29.07.2017 at 6.00 a.m. his height was measured and he was disqualified on the ground that his height is less than 170cms. and as such he is ineligible. The petitioner challenging the impugned notice dated 29.07.2017 issued in that regard by filing W.P.(MD) No.15311 of 2017 and it was entertained. The learned Single Judge, during the course of the arguments has also seen the videograph recordings and recorded a finding that in terms of the manual measurement his height is 169.6cms. and he was running short of 0.4cms. as against the requisite height of 170cms. and accordingly, the disqualification of the petitioner is in order. Recording the said reason, the learned Judge has dismissed the writ petition vide order dated 21.08.2017 and aggrieved by the said order, the petitioner has filed this Writ Appeal.

2.The learned counsel appearing for the appellant/writ petitioner reiterated the very same arguments advanced before the learned Single Judge and would submit that his height measurement was not properly done and even assuming that it was properly done, shortage of measurement is only 0.4cm and this Court in exercise of its jurisdiction under clause 15 of Letters Patent may condone the same by taking into consideration the background of the appellant/writ petitioner and that he had cleared the physical endurance test except the requirement of the height and prays for interference with the order of the learned Single Judge.

3.The learned counsel for the appellant in support of his submission has placed reliance on the order of this Court dated 07.10.2016 in **W.P. (MD) No.31080 of 2015 [P.Deepika v. The Secretary to Government, Home (Police II) Department and two others]** and in the judgment dated 28.03.2018 in **W.A. (MD) No.1313 of 2017 [N.Bothiraja v. The Chairman, Tamilnadu Uniformed Services Board and another]**.

4.Per contra, Mr.K.Chellapandian, learned Additional Advocate General, assisted by Mr.Aayiram K.Selvakumar, learned Additional Government Pleader has drawn the attention of this Court to paragraph Nos.17, 20, 21 and 23 of the counter affidavit



and would submit that in terms of paragraph 49 of the Physical Endurance Test instruction booklet, the claim of the petitioner has been considered and the recorded height of 169.6cms. cannot be converted into 170cms. so as to enable the appellant/writ petitioner to be eligible and in the absence of the challenge to the said instructions, the points urged by the appellant cannot be said to be worthwhile and he would further add that the learned Judge has seen the videograph pertaining to the appellant and has reached the right conclusion and hence, prays for dismissal of the Writ Appeal.

5.In support of his submissions, the learned Additional Advocate General has placed reliance on the judgments of this Court dated 28.03.2018 made in **W.A. (MD) No.1265 of 2017 [M.Govindammal v. The Chairman, Tamil Nadu Uniformed Services Recruitment Board and another]** and dated 28.03.2018 made in **W.A. (MD) No.1291 of 2017 [G.Vanitha Valarmathi v. The Member Secretary, Tamil Nadu Uniformed Services Recruitment Board and another]**.

6.This Court has considered the rival submissions and perused the materials placed on record.

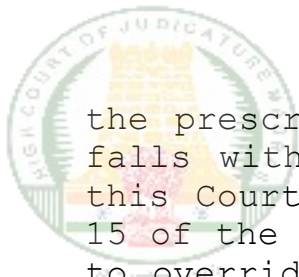
7.The respondents have framed a comprehensive guidelines for common recruitment of Grade II Police Constables and allied Services for the year 2017 and it is relevant to extract paragraph 49 of the physical endurance tests instructions:-

"Rounding off of Height Measurements:

All the Physical Measurements (Height/Chest) will be rounded off to the nearest 0.5 cm to take care of margin of error upto 0.2cm and recorded accordingly. [i.e. the 0.2 cm nearest to the rounded number should be rounded to the nearest rounded number (i.e. 169.8 - 170 - 170.2). Likewise 0.2 cm before or after the nearest 0.5 cm should be rounded to the nearest 0.5 cm (i.e. 164.3 - 165 - 165.2)."

In the considered opinion of this Court, the height measurement of the petitioner has been done in accordance with the said paragraph 49 of physical endurance tests instructions and the recording of the height of the appellant is 169.6cms. and in terms of the said paragraph rounding off cannot be done so as to increase the height as 170cms.

8.The learned counsel for the appellant has also made a plea of equity by stating that the shortage of measurement is only 0.4cm. and this Court can condone it also. However, this Court is not inclined to consider the said submission for the reason that



the prescription of the qualification under the required criteria falls within the exclusive domain of the selection authority and this Court in exercise of its appellate jurisdiction under Clause 15 of the Letters Patent cannot act as a super selection authority to override or overlook the said criteria. It is also to be noted at this juncture that the selection to the post of Grade - II Police Constables and the allied services are in the uniformed services and therefore, minimal requirements cannot be dispensed with under the guise of judicial review of the selection process. As already pointed out, the video recording of the height was also seen by the learned Single Judge and after going through the videographs the learned Judge has derived a satisfaction that what was done by the second respondent is perfectly in order. The two unreported decisions relied on by the learned Additional Advocate General appearing for the official respondents also laid down a proposition that it is not for the Writ Court to waive or relax the eligibility criteria with regard to the minimum height or to adjudicate factual disputes with regard to the correctness of the measurement of height by the authorities concerned. In the light of the factual situation, coupled with the well settled legal position, this Court is unable to come to the aid of the appellant in the writ appeal.

9. In the result, the Writ Appeal is dismissed confirming the order of the learned Single Judge dated 21.08.2017 made in W.P.(MD) No.15311 of 2017. Consequently, connected Miscellaneous Petition is closed. However, in the circumstances of the case, there shall be no orders as to the costs.

Sd/-

Assistant Registrar (RECORDS)

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Sub Assistant Registrar (CS)

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To

1.The Chairman,
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Old Commissioner of Police Office Campus,
Pantheon Road,
Egmore,
Chennai - 600 008.

2.The Chairman,
Recruitment Sub-Committee,
Madurai Centre &
The Deputy Inspector General of Police,
Madurai Range,
Madurai.

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