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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2021

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THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA  
and  
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.A. Nos.658, 659 and 660 of 2020 and  
C.M.P. Nos.9267, 9270 and 9271 of 2021

1. The State of Tamil Nadu,  
Represented by the Principal Secretary,  
Home Department,  
Secretariat, Chennai 600 009.
  2. The Chairman,  
Tamil Nadu Uniformed Services Recruitment Board,  
Old Commissioner of Police Office Campus,  
Egmore, Chennai 600 008.
  3. Member Secretary,  
Tamil Nadu Uniformed Services Recruitment Board,  
Old Commissioner of Police Office Campus,  
Egmore, Chennai 600 008.
  4. The Director General of Police,  
O/o.The Director General of Police,  
Tamil Nadu, Chennai 600 004
- ... Appellants in  
all Appeals

vs

|                  |                                        |
|------------------|----------------------------------------|
| S.Priya Dharsini | ...Respondent in<br>W.A.No.658 of 2020 |
| J.Manimaran      | ...Respondent in<br>W.A.No.659 of 2020 |
| S.Dineshmoorthy  | ...Respondent in<br>W.A.No.660 of 2020 |

Prayer: Writ Appeals filed under clause 15 of the Letters Patent  
praying to set aside the common order dated 06.09.2019 made in  
W.P.Nos.26520, 26513 and 26496 of 2019.



COMMON PRAYER in WP. Nos 26520,26513 and 26496 of 2019: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondents to consider the petitioner for appointment to the post of Sub-Inspector of Police (Technical) in pursuant to the publication of the provisional list issued by the second respondent vide his proceedings Nil dated Nil (published in the official website of the second respondent on 14.12.2018) without reference to the visual acuity (eye power) within the period that may be stipulated by this Court.

For Petitioner : Mr.R.Neelakandandan,  
in all WAs State Government Counsel

For Respondents : Mr.Ajmal Khan, Senior Counsel  
in all WAs for M/s.Ajmal Associates

#### COMMON JUDGMENT

[Judgment of Court was delivered by PUSHPA SATHYANARAYANA, J.]

Writ Petitions were originally filed seeking a direction to the appellants herein to consider the respondents/writ petitioners for appointment to the post of Sub-Inspector of Police (Technical), pursuant to the application of the provisional selection list issued by the second appellant on 14.12.2018.

2. The Writ petitioners had cleared the written examination on 30.09.2018 and also appeared for the physical measurement test and viva-voce. On 14.12.2018, they were provisionally selected. However, during the medical examination, a new criteria was introduced to the effect that the candidates should possess eye-vision of 6/6. Since these respondents/writ petitioners do not have the requisite eye-vision of 6/6, their appointments were denied. According to the Writ Petitioners, the said criteria of medical examination regarding the eye-vision, was not there in the recruitment notification.

3. In similar circumstances, at the relevant point, certain Writ Petitions were filed before the Madurai Bench of the Madras High Court in W.P(MD).Nos.5441 of 2019 etc., The said Writ Petitions were allowed on 30.04.2019, directing the authorities to consider the candidature of the similarly placed petitioners therein to that of the respondents herein. Against the said order dated 30.04.2019, Writ Appeals were preferred in W.A(MD).Nos.941 to 953 of 2020. The said writ appeals were dismissed on 15.02.2021 on the following lines:



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"7. We do not find any merit in these Writ Appeals, as rightly submitted by the learned Senior Counsel appearing for the respondents that it is not a case, the respondents cannot function by wearing glasses. The Notification does not specify the extent of visual standards, even otherwise, it is clear, as the respondents can perform by wearing glasses, their candidature cannot be rejected by making them to undergo a test without wearing glasses. The question is the suitability to the job and not otherwise. The classification sought to be made is certainly violative of Article 14 of the Constitution of India. If it is approved, a candidate, who is wearing specs would become disentitled for being considered to the post. It is an indirect way of fixing qualification on the sole premise that a candidate wearing glasses cannot be considered. One has to see the eligibility and suitability of the candidate to the post, but such eligibility cannot be fixed on the basis of a candidate without specs, vis-a-vis, a candidate with specs. Thus, looking from any perspective, we do not find any reason to interfere with the order passed by the learned Single Judge, as we are in respectful agreement with the submission made by the learned Senior Counsel appearing for the respondents that the Government Order relied upon is outdated, opaque and contrary to the wisdoms expressed by the Hon-ble Apex Court. It is the insufficient/inadequate eyesight that makes a person to wear a glass. Once such glass is worn, then, that deficiency goes. Therefore, such person becomes eligible on par with the other person, who performs without glasses.

8. In such view of the matter, the classification sought to be made has got no rationale, as the job is sought to be undertaken as a whole. Accordingly, these Writ Appeals stand dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.



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9. At this juncture, the learned Senior Counsel appearing for the respondents submitted that a direction may be issued to give appointment orders, as the respondents are awaiting for quite sometime despite having become qualified with their name in the provisional list.

10. We are inclined to agree with the said submission made. Accordingly, the appellants are directed to give appointment orders to the respondents within a period of six weeks from the date of receipt of a copy of this judgment."

4. Heard Mr. R. Neelakandandan, learned State Government Counsel appearing for the appellants and Mr. Mr. Ajmal Khan, learned Senior Counsel appearing for the respondents.

5. It is stated by the learned State Government Counsel that against the judgment passed by the Madurai Bench of Madras High Court, they are desirous of preferring an SLP before the Hon'ble Supreme Court.

6. However, it is agreed by the learned counsels appearing on both sides that a similar order may be passed in these Writ Appeals also, as it relates to same recruitment.

7. Accordingly, these Writ Appeals are dismissed with a direction to the appellants to give appointment orders to the respondents/writ petitioners within a period of six weeks from the date of receipt of a copy of this Judgment. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

srn

To

1. The Principal Secretary, Home Department  
Secretariat, Chennai-9



2. The Chairman,  
Tamil Nadu Uniformed Services Recruitment Board,  
Egmore, Chennai-8

3. The Member Secretary,  
Tamil Nadu Uniformed Services Recruitment Board,  
Egmore, Chennai-8.

4. The Director General of Police,  
Chennai-4.

+1cc to the Government Pleader, High Court, Madras, S.R.No.30803

W.A. Nos.658, 659 and 660 of 2020 and  
C.M.P. Nos.9267, 9270 and 9271 of 2021

PPA(CO)  
SB(02/08/2021)