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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29 .06.2021

CORAM

The Honourable Mrs.Justice PUSHPA SATHYANARAYANA  
and  
The Honourable Mr.Justice KRISHNAN RAMASAMY

W.A.No.1033 of 2021

and

C.M.P.No.6507 of 2021

R.Balaji

... Appellant

vs

1.Tamil Nadu Uniformed Service Recruitment Board,  
Rep. by its Chairman,  
Old Commissioner of Police Office Campus,  
Pantheon Road, Egmore,  
Chennai - 600 008.

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

3.The Chairman Sub-Committee/Member,  
Tamil Nadu Uniformed Services Recruitment Borad,  
Old Commissioner of Police Office Campus,  
Pantheon Road,  
Egmore, Chennai - 600 008.

... Respondents

Prayer: Writ Appeal filed under clause 15 of the Letters Patent Act against the final order dated 19.01.2021, made in W.P. No.16191 of 2020.

Prayer in WP.No. 16191 of 2020: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the order dated 06.10.2020 in C.No.R2/860/2019 passed by the 3<sup>rd</sup> respondent and quash the same, consequently directing them to allow the petitioner to participate in the remaining Physical Measurement Test (PMT), Physical Endurance Test (ET) and Physical Efficiency Test (PET) relating to the Direct Recruitment for the post of Sub-Inspector of Police (Taluk, Armed Reserve and Tamil Nadu Special Police) 2019 in the presence of their senior officers or any other officer as this Court.

For Appellant

:

Mr.M.Pragadeeswaran

For Respondents

:

Mr.R.Neelakantan

State Government Pleader



JUDGMENT  
(delivered by Krishnan Ramasamy, J., )

This Writ Appeal is filed challenging the order passed by the learned Single Judge, in W.P.No.16191 of 2020, dated 19.01.2021.

2.The facts of the case is that, on 08.03.2019, the second respondent published a Notification No.2 of 2019, for direct recruitment for the post of Sub-Inspector of Police (Taluk, Armed Reserve and Tamil Nadu Special Police) 2019. On the same day, Information Brochure was also published by the second respondent for the said recruitment. Consequent to the notification, the appellant has applied for the post of Sub-Inspector of Police and participated in the written examination on 12.01.2020 and scored 50 out of 70 marks. Therefore, the appellant was called for the second stage i.e., Physical Measurement Test (PMT)/Physical Endurance Test (ET)/Physical Efficiency Test (PET) on 06.10.2020 and the appellant's height was measured through digital measurement device and recorded as 169.0 cms. According to the appellant, his height is 172 cms. Therefore, he appealed to the third respondent for re-measurement. In the re-measurement, the height of the appellant was measured as 168.5 cms and the same was also videographed. Since the height of the candidate, who comes under BC communities should be 170 cms, the appellant was disqualified.

3.Aggrieved over the same, the appellant filed the writ petition in W.P.No.16191 of 2020, claiming that his height is 172 cms and there is a discrepancy in the measurement recorded using digital measurement device during the physical test. The appellant privately measured his height, wherein the appellant's height was recorded as 172 cms and in this regard, Dr.K.V.Sivakumar, Associate Professor of Pediatrics, Government Medical College has issued a certificate. The learned Single Judge dismissed the said writ petition stating that the petitioner is not entitled to the relief sought for, in terms of the order of the Full Bench of this Court in W.A.Nos.8 to 12, 14 to 16, 23 & 24 of 2020 dated 05.02.2020. Against which, the present Writ Appeal.

4.The learned counsel for the appellant submitted that the height of the appellant is 172 cms, which is more than 2 cms of the eligibility criteria for the post of Sub-Inspector of Police. Though the appellant has the eligible height of 172 cm, due to the discrepancy in the measurement he was disqualified.

5.The learned counsel for the appellant further submitted that when the petitioner had measured his height through Civil Medical Board, it was recorded as 172 cms and there is no chance for variation of 3.5 cms. Hence, there is discrepancy in the digital measurement recorded by the third respondent.



Further, the right of the appellant has been deprived, therefore, he filed the writ petition to permit him to participate in the remaining tests. The learned Single Judge without considering these aspects, simply dismissed the writ petition holding that the appellant has not sought for the re-measurement of his height. According to the appellant, the re-measurement of height is not required since the appellant's height has been certified by the Doctor as 172 cms. Therefore, he sought for relief for participating in the remaining physical tests.

6. On the other hand, the learned Government Advocate submitted that since lot of discrepancies happen in the measurement of height during the selection process, the Hon'ble Full Bench of this Court had issued directions to conduct the physical test using the digital measurement device. The respondents constantly following the directions issued in the judgment passed by the Hon'ble Full Bench of this Court, have conducted the physical test and all these points were considered by the learned Single Judge. Hence, the appeal has no merits and the same is liable to be dismissed.

7. We have heard the submissions of the learned counsel for both sides and perused the materials on record.

8. During the physical test conducted on 06.10.2020, the appellant's height was initially measured as 169 cms through digital measurement device. Subsequently, he made an appeal to the respondents to re-measure his height and consequent to the appeal, the height of the appellant was measured digitally on 06.10.2020 and recorded as 168.5 cms. Now, the grievance of the appellant is that even though the measurement was done digitally, it shows two different measurements at two different points of time. Whereas, when the appellant measured his height with the Civil Medical Board Doctor on 28.10.2020, it was recorded as 172 cms. Hence, the appellant seeks direction to measure his height once again.

9. In order to avoid these type of litigations, the Hon'ble Full Bench of this Court vide judgment dated 29.01.2020 in W.A.Nos.8 to 12, 14 to 16, 23 & 24 of 2020, has suggested to go for the measurements using the digital measurement device. For better appreciation, it would be apposite to extract Paragraph Nos.37 to 40 of the said judgment as under:

37. We are, therefore, of the opinion that the prescription of minimum height that has been taken as a policy decision by the Government should not be ordinarily interfered with by a Court of law, the same being a matter of expertise and specific requirement for policing of the State. The prescription of such height therefore



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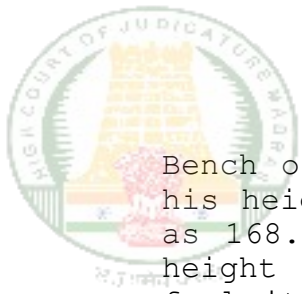
should not also be compromised by the State, nor should it be diluted by judicial intervention.

38. The question therefore is that in order to maintain the sanctity of prescription, whether the State Government has taken appropriate measures for standardizing the same in order to avoid any such discrepancy. Learned Advocate General, during the course of arguments, has passed on a leaflet informing the Court that for the purpose of measuring the height and weight of the candidates, they have taken care to requisition Digitized Electronic Devices, the description whereof indicates that it operates with a sensor machine and measures the height from the bottom of the foot to the top of the head. This machine was, however, not utilized during the initial measurement, but was deployed at the stage of appeal and again not during re-measurement on Court directions.

39. It is not understood as to why the same was not adopted for re-measurement after the Court orders intervened. Nonetheless, the description of the device indicates that it has weight platform with a head sensor for proper placement of foot on the weighing platform and raises an alarm in case of improper standing posture. Spirit level ensures correct level of the platform and the measurement cannot take place unless the sensors are activated. It has a measurement capacity of minimum 150 cms to a maximum of 200 cms with a readability +/- one millimeter.

40. We are, therefore, of the opinion that the adoption of such scientific measuring device may almost be perfect, minimizing the possibility of errors and therefore, should be adopted and standardized as a measuring device at every stage of the measurement of heights of a candidate. A standard procedure with the same instrument before different authorities will reduce the possibility of any disproportionate variation that may ultimately give rise to any further dispute or litigation. To this extent, the method and procedure of measuring heights deserves rectification that will eliminate any adverse possibilities as indicated or complained of in the various writ petitions, the judgments whereof have been cited at the bar."

10. A perusal of the above judgment reveals that the measuring the height by scientific measuring device would minimize the possibility of any disproportionate variation that may ultimately give rise to any further dispute or litigation. Of course the variation of 0.5 cm would occur when the height of the candidate measured at different points of time. This aspect was also taken note by the Hon'ble Full



Bench of this Court. Considering the request of the appellant his height was measured for the second time and it was marked as 168.5 cm. Even in the second measurement the appellant's height was not up to the mark i.e., 170 cms. Therefore, we feel it is not necessary to send the appellant once again to measure his height particularly in view of the law laid down by the Hon'ble Full Bench of this Court cited supra. Further, the relief sought in the writ petition is to allow the petitioner to participate in the remaining Physical Measurement Test etc., when the petitioner does not satisfy the requirement of minimum height, certainly, he is not entitled to participate in the remaining Physical Measurement Test (PMT)/Physical Endurance Test (ET)/Physical Efficiency Test (PET). All these aspects have been considered by the learned Single Judge. Hence, we do not find any infirmity in the order passed by the learned Single Judge dated 19.01.2020 and it does not warrant any interference. Besides, the learned Government Pleader submitted that the entire selection process was completed on 15.04.2021 and there is no post vacant. The said statement is recorded. Accordingly, the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

Rst

To

- 1.The Chairman,  
Tamil Nadu Uniformed Service Recruitment Board,  
Old Commissioner of Police Office Campus,  
Pantheon Road, Egmore, Chennai - 600 008.
- 2.The Member Secretary,  
Tamil Nadu Uniformed Services Recruitment Borad,  
Old Commissioner of Police Office Campus,  
Pantheon Road, Egmore, Chennai - 600 008.
- 3.The Chairman Sub-Committee/Member,  
Tamil Nadu Uniformed Services Recruitment Borad,  
Old Commissioner of Police Office Campus,  
Pantheon Road, Egmore, Chennai - 600 008.

+1cc to Mr.C.T.Prabhakar Advocate, S.R.No. 30298

+1cc to the Government Pleader, S.R.No. 30386

W.A.No.1033 of 2021  
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