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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.09.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.16092 of 2021
and WMP.No.17022 of 2021
(Through Video Conferencing)

R.Siva ... Petitioner

Vs

1. The Chairman,
Tamil Nadu Uniformed Services
Recruitment Board,
Pantheon Road, Egmore,
Chennai - 08.

2.The Chairperson,
Sub-committee,
Tamil Nadu Uniformed Services
Recruitment Board,
Pantheon Road, Egmore,
Chennai - 08.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the respondent in nil dated 27.07.2021 and quash the same and consequently direct the respondents to conduct a fresh measurement test and to send the petitioner for subsequent stages of selection.

For Petitioner : Mr.S.Sivakumar
For Respondents : Mr. L.S.M. Hasan Fizal,
Government Advocate

O R D E R

Already orders have been passed allowing some other candidates who appear in the physical test again some candidates who could not appear due to covid-19.

2. The learned Government Advocate has also submitted that originally the tentative date was fixed for such physical test during 6th and 7th September, 2021. These dates have been postponed to 22nd September, 2021 in Trichy.



3. It is noticed that many of the petitioner has filed certificate from the Government Hospital and/or registered Medical Practitioner to prove that they have requisite height. This Court cannot examine the correctness of the certificate based on which, the relief is sought for. However, this Court is inclined to observe that the recruitment proceeding can be altered in the future such that a certificate of physical measurement is obtained by candidates from any institution recognized by the Government and approved by the Recruitment Board and are uploaded along with the application for the post. This would obviate disappointment to those who end up clearing written test under the present method of selection. Only candidates who satisfy physical re-measurement alone would upload their certificate and participate in the competitive exam for selection. Such height can be re-measured once again after qualifying in the written exam. The measurement should carried with the Digitized Electronic Device recognized the order of the Full Bench dated 29.01.2020 in W.A.Nos.8 to 12 of 2020 and batches etc. in A.Parthiban and 9 Others vs. 1.Tamil Nadu Uniformed Services Recruitment Board, Rep. by its Chairman (DGP) Old Commissioner of Police Campus, Pantheon Road, Egmore, Chennai 600 008 and another.

4. The Government may therefore explore the possibility of notifying such institution in each Districts where such certificate can be obtained by prospective candidates where such standardized measuring instruments/equipments are used for measuring the height. The said order of the Full Bench dated 29.01.2020 in W.A.Nos.8 to 12 of 2020, it was held as under:-

42. Having reasoned out the issues raised before us, we accordingly answer the questions as follows:-

i. A Writ Petition under Article 226 of the Constitution of India for correcting any error may ordinarily be not maintainable involving factual disputes, but, on the establishment of a patent factual error leading to prejudice and resulting in violation of legal or fundamental rights or otherwise involving malafides, a writ petition can be entertained under Article 226 of the Constitution of India, in order to avoid or otherwise rectify a denial of opportunity in matters of employment;

ii. The exercise of height measurement may be resorted to through



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scientifically approved electronic or such other devices, such as Digital Measurement Device (Sensor Machine) and the same deserves to be undertaken at all stages of height measurement to establish a standardised procedure of measurement, in order to avoid any variation either in appeal or to avoid any future litigation;

iii. The Rules prescribing rounding off as amended and contained in Rule 14 of the Special Rules for Tamil Nadu Police Subordinate Service being not under challenge, the same can be implemented, but, in order to ensure any dispute of calculation, miscalculation or any suspected marginal error, it would be appropriate that instead of rounding off principle, a relaxation to the extent of 0.5 centimeter in the respective categories be introduced as a matter of rule that may possibly avoid any future litigation or dispute relating to discrepancy of measurement.

5. Considering the same, this writ petition is disposed by directing the respondents to permit the petitioner to appear in the proposed physical test to be conducted on 22nd September, 2021 along with candidates who could not attend earlier due to Covid-19.

6. Accordingly, this writ petition is disposed and direct the second respondent - Chairperson, Sub-Committee, Tamil Nadu Uniformed Services Recruitment Board, Pantheon Road, Egmore, Chennai- 08, directed to conduct physical examination of the petitioner, on the next date of physical examination which is tentatively fixed to 22.09.2021 in Trichy. In the event, the petitioners qualify in the physical examination, they shall be treated as eligible for further consideration. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar



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To

1. The Chairman,
Tamil Nadu Uniformed Services
Recruitment Board,
Pantheon Road, Egmore,
Chennai - 08.

2. The Chairperson,
Sub-committee,
Tamil Nadu Uniformed Services
Recruitment Board,
Pantheon Road, Egmore,
Chennai - 08.

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SJ(CO)
GN(21/09/2021)