



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.02.2021**

CORAM:

**THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MRS. JUSTICE S.ANANTHI**

**W.A. (MD)No.283 of 2021
and CMP(MD) No.899 of 2021**

T.Ezhilarasan : Appellant/Petitioner

Vs.

1.The Deputy Inspector General (Recruitment)
Directorate General CRPF
East Block - 07 Level 4
Sector 01, R.K.Puram, New Delhi

2.The Commandant
Regional Recruitment Centre,
Group Centre, CRPF
Avadi, Chennai.

3.The Deputy Inspector General
Recruitment Training Centre,
ITBP
Iluppakudi
Sivagangai District.

: Respondents/Respondents

PRAYER: Appeal filed under Clause 15 of the Letters Patent against the order of this Court in W.P.(MD) No.14640/2020 dated 10.12.2020.

Prayer in WP(MD). 14640 of 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court S-4. to issue a writ or order or direction in the nature of writ of certiorarified mandamus calling for the records in the impugned order passed by the 3rd respondent dated 11.03.2020 made in No.ITBP/RTC Sivagangai/CT (GD) Rectt.Board/2019 and order in No.R.II.3/2010-Rectt (SSB)-CT/GD dated 11.09.2020 issued by the 2nd respondent and quash the same and consequently direct the 1st respondent to dispose the appeal dated 18.03.2020 and the same was forwarded by the proceeding No.R.II.3/2010-Rectt(SSB)-CT/GD dated 19.03.2020 on merits.



For Appellant : Mr.P.Arun Jayatram
For Respondents : Ms.L.Victoria Gowri
Assistant Solicitor General

JUDGMENT

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

The Staff Selection Commission issued notification on 21.07.2018 calling for application for the post of Constables in the Central Armed Police Force. The appellant was one of the candidate, who applied for the post under the Scheduled Caste category. The appellant's candidature was rejected having found medically not fit, as he was suffering from murmur in heart. The appellant filed an appeal before the respondent No.3. The appeal was rejected on the ground that he has not enclosed photograph and thumb impression. The following is the operative portion of the order passed:

"2.In this connection it is intimated that the appeal preferred by you is considered on merits for Review Medical Examination (RME) but your candidature for the post of Constable /GD through Common Recruitment of CAPFs for the year 2018 is rejected by the competent authority on the following ground(s):

1. Photograph and thumb impression is not attested by doctor."

2. As the appellant was rejected not on merits but only on technical ground, namely, the appellant has not produced photograph and thumb impression attested by the Doctor, he approached the respondent No.2 requesting for reconsideration, after duly complied it. The respondent No.2 forwarded the papers to respondent No.3 indicating that the error committed by the appellant has been rectified. By the impugned order, the respondent No.3 once again rejected the appeal stating that the earlier appeal has already been rejected and therefore, no further appeal would be entertained. Challenging the same, the appellant filed writ petition. The learned Judge dismissed the writ petition on the ground that the appellant has not produced the medical fitness certificate from the concerned Doctor having the requisite qualification.

3. The learned counsel for the appellant submitted that the mistakes have been rectified and they are procedural in nature. Subsequently certificate has also been obtained from the very same Doctor, who is a Senior Civil Surgeon working at the Thanjavur Medical College, Thanjavur. The order of rejection on the first occasion is not on merits. The learned Judge ought not to have gone into the issue of medical certificate, as the same is not germane to the impugned order passed.



4. The learned Assistant Solicitor General appearing for the respondents submitted that the entire process of selection is over. The appellant committed an error. He has not produced the medical certificate, which he seeks to rely upon. Therefore, the appeal deserves to be dismissed, especially, considering the job that required to be done.

5. We are concerned with the validity of the impugned order before us. Therefore, we are not expected to go into the fact as to whether the appellant is fit enough to be appointed or not. It is only for the respondents to consider. In the impugned order, the respondent No.3 has declined to consider the case of the appellant on the premise that the earlier appeal was rejected. The earlier appeal was not rejected on merits, but only on the ground of non furnishing of photograph and the thumb impression not being attested by the appellant. Therefore, the question of not getting certificate from the appropriate Doctor would not arise. The recommendation made also indicates that the mistakes have been rectified.

6. The appellant, who belongs to Scheduled Caste Community, has worked hard to reach this stage. Therefore, he deserves such chance to convince the respondents that he is fit enough to be appointed. In such view of the matter, we are of the view that the order of the learned Judge, requires to be interfered with, as an issue, which is not germane has been taken into consideration. Accordingly, we set aside the order of the learned Judge and the impugned order passed with a direction to the respondent No.3 to consider the appeal of the petitioner on his own merit and take a decision in this regard with respect to the eligibility of the appellant to undertake the job physically. We are not inclined to say anything on the mode of examination, which may also include a review by the Medical Board. The procedure is something, which is in the realm of the respondents. Accordingly, we direct the respondents to consider the appeal filed by the appellant on merits and take a decision within six weeks from the date of receipt of a copy of this judgment.

7. The writ appeal stands allowed accordingly. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(AD-I)

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/ /2021

Sub Assistant Registrar(CS)



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Order made in
W.A. (MD) No.283 of 2021
05.02.2021

KUN (CO)
TR(23.02.2021) 4P 4C