



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **19.02.2021**

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MRS. JUSTICE S.ANANTHI

W.A. (MD)No.1176 of 2020

- 1.The State of Tamil Nadu,
Rep. by its 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 - 8.
- 3.The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore, Chennai - 8.
- 4.The Director General of Police,
O/o. The Director General of Police,
Tamil Nadu, Chennai - 600 004.
- 5.The Additional director general of police,
State Crime Records Bureau,
O/o. Additional Director General of Police,
Chennai - 4. ...Appellants

Vs.

S.Durga devi ...Respondent

PRAYER: Appeal filed under Clause 15 of the Letters Patent against the order of this Court in W.P.(MD) No.11868/2019 dated 08.05.2019.

Prayer in WP(MD). 11868 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the fifth respondent in his proceedings Rc.No.A1/46/617/SCRB/2019 dated 14.03.2019 and quash the same as illegal and void and direct the respondents to consider



the petitioner for appointment to the post of Sub Inspector of Police (Finger Print).

For Appellants : Mrs.J.Padmavathy Devi,
Special Government Pleader

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For Respondent : Mr.M.Ajmal Khan
Senior counsel for
M/s.Ajmal Associates

JUDGMENT

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

The issue involved in this writ appeal lies in a narrow compass viz., is a person, who could only perform a regular function by wearing glasses would become disentitled to a post he can otherwise perform, by making an assessment *qua* the eyesight without wearing glasses?

2.The respondent before us went through the process of recruitment to the post of Sub-Inspector of Police (Finger print). She has, accordingly, cleared the written examination followed by physical measurement endurance test and viva voce. She was found non-suited pursuant to the examination done by the Medical Board consists of one Eye Specialist, after having been selected provisionally.

3.The test was conducted in tune with the Government Order passed in G.O.Ms.No.1221, Home (Police.9) Department, dated 10.11.2000, by fixing the visual standards upon testing a candidate without wearing glasses. After making the respondent going through the rigor thrice, she was found non-suitable and her candidature was rejected.

4.The learned Single Judge allowed the Writ Petition *inter alia* holding that the notification does not specify the visual standards. It is not as if the work cannot be done by wearing glasses. What the respondent lacks is only an inadequate and insufficient power in the eyes.

5.Laying a challenge to the aforesaid order passed, the learned Special Government Pleader submitted that the appellants merely relied upon the Government Order passed. The appellants, being the employer of the respondent, cannot question the methodology adopted. In the absence of arbitrariness or *mala fides* involved in the views expressed by the Medical Board, the learned Single Judge ought not to have allowed the Writ Petition.



6.The learned Senior Counsel appearing for the respondent reiterated the views expressed by the learned Single Judge. It is submitted that it is not even the case of the appellants that the respondent cannot undertake the job by wearing glasses. The insufficient power is only a deficiency in the eyes. If the said contention is accepted, any candidate wearing specs would get excluded automatically. The Government Order relied upon itself is contrary to law and the idea is to create an equal platform for everybody. A residual restriction or barrier, when it does not affect the performance of the candidate will never stand a scrutiny of law.

7.We do not find any merit in this Writ Appeal. As rightly submitted by the learned Senior Counsel appearing for the respondent that it is not a case of the appellants that the respondent cannot function by wearing glasses. The Notification does not specify the extent of visual standards, even otherwise, it is clear, as the respondent can perform by wearing glasses, her candidature cannot be rejected by making her 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 sought to be undertaken can be done wearing specs. Accordingly, the Writ Appeal stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.



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

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

Sd/-

Assistant Registrar(RTI)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RR

To

- 1.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 - 8.
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- 4.The Director General of Police,
O/o. The Director General of Police,
Tamil Nadu, Chennai - 600 004.
- 5.The Additional director general of police,
State Crime Records Bureau,
O/o. Additional Director General of Police,
Chennai - 4.

+1 CC to M/s.SPL GP (SR-6673[F] dated 23/02/2021)

Order made in
W.A. (MD) No.1176 of 2020
19.02.2021

MJ(CO)

TP(03.03.2021) 4P 7C

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