



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.04.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD)No.7136 of 2021

and

W.M.P(MD)Nos.5452, 5453 & 5479 of 2021

Thirumurugan

... Petitioner

Vs.

The Tamil Nadu Uniform Service Recruitment Board,
Represented by its Chairman,
Old Commissioner of Police Office,
Pantheon Road, Egmore,
Chennai-600 008.

... Respondent

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondent to reconduct the (PET) Physical Efficiency Test for the petitioner, as per his representation, dated 18.03.2021.

For Petitioner	: Mr.Lakshmi Narayanan for Mr.P.Pethu Rajesh
For Respondent	: Mr.K.Chellapandian Additional Advocate General Assisted by Mr.C.Ramesh Special Government Pleader

ORDER

This writ petition is filed seeking a writ of Mandamus to direct the respondent to re-conduct the (PET) Physical Efficiency Test for the petitioner, as per his representation, dated 18.03.2021.

2. According to the petitioner, he is a B.E., graduate as well as a sports person and has participated in Kabbadi, long distance running etc. The respondent called for applications for recruitment of Sub-Inspector of Police in the year 2019 for Taluk Armed Reserve and Tamil Nadu Special Police Cadre. The petitioner applied for the said post and participated in the written examination held on 12.01.2020 and secured 52 marks out of 70. The respondent directed the petitioner to appear for physical measurement and physical endurance test at Rajarathinam Stadium, Chennai, on 01.10.2020. The petitioner was successful in both the tests. The respondent fixed



the date of Physical Efficiency Test on 14.10.2020. The petitioner while training at his native place, suffered injury on his right leg on 12.10.2020 and he was examined by the Doctor P.Palanivel Rajan, M.S.(Ortho), specialist in Arthroscopic Surgery and Sports Medicine. He found that the petitioner suffered injury on his right leg-Gastrocnemius Muscle and Peroneus Longus and advised him to take bed rest for four weeks. The petitioner did not want to miss out the chance in participating the test and participated the test conducted on 14.10.2020. The petitioner was successful in 6 meter rope climbing test and due to the injury he suffered on 12.10.2020, his right leg was not able to withstand the strain of the long jump and therefore, in all the three chances, he was foul play. The petitioner explained the situation to the person in-charge, the same was not considered and the impugned disqualification slip was issued on the same day, by the proceedings in C.No.R2/860/2019.

3. The learned counsel for the petitioner submitted that the respondent should have seen that despite the injury, he was successful in the rope climbing and he could not clear the long jump. The petitioner is an Engineering Graduate, who had secured 75% in the written examination. For the very same recruitment, the respondent had already considered the very same request favourably and relied on the order of this Court, ***dated 27.09.2018*** made in ***W.P (MD)No.20316 of 2018 (A.Arunpandian vs. the Member Secretary TNUSRB and others)*** and the relevant portion of the order is extracted hereunder:-

"6. It is true that if the scheduled date is altered, it may pave way to other candidates to unsettle the settled candidates and bring the entire process of recruitment to a standstill. But, in the present case on hand, as could be seen from the documents produced, the fault is not on the part of the petitioner, but the destiny played a crucial role in preventing the petitioner from appearing for the test. Since the recruitment is scheduled for selection to various posts in the uniformed services, it is open to the respondents to ascertain the genuineness of the accident, in which, the petitioner was stated to be injured.

7.Be that as it may, there are evidences to show that the petitioner had met with an accident and got admitted in the hospital and as the selection process is not complete as on date, there is no hurdle on the part of the respondents in giving one more opportunity to the petitioner to participate in the physical efficiency test that may be scheduled on anyone of the dates convenient to the respondents before 22.10.2018."



4. He relied on another order of this Court, **dated 20.01.2021**, made in **W.P(MD)No.14177 of 2020 (G.Vinoth vs. The Chairman, Sub Committee, TNUSRB)** and the relevant paragraphs are extracted hereunder:

"12. In consequence to the ratio laid down by the Hon'ble Full Bench, a Division Bench of this Court in the same case of **A.Parthiban** (cited supra) had also interfered in the height measurement test already conducted by the Board and directed the Board to conduct remeasurement of the height of the candidate. The relevant portion of the order of the Hon'ble Division Bench reads as follows:

"4. In view of what has been discussed by the Full Bench in the judgment dated 29.01.2020 relying on the facts stated in the status report filed by the State therein, and in the light of the findings arrived at, all these appeals deserve to be allowed and disposed of with a direction to the first respondent to re-measure the heights of the appellants.

5. We, accordingly, allow these appeals to the extent as indicated in the Full Bench judgment dated 29.01.2020 and direct the first respondent, Chairman, Tamil Nadu Uniformed Services Recruitment Board, Chennai 600 008, to carry out the physical examination tests of all the appellants, as indicated in the Full Bench judgment dated 29.01.2020, within a period of fifteen days from today and accordingly proceed with the selections. In the event, the appellants clear the said physical examination tests, they shall be treated as eligible for further consideration. The measurement shall be carried out by the Digitized Electronic Device, the reference whereof has been made in the Full Bench judgment dated 29.01.2020. No costs. Consequently, all the connected miscellaneous petitions are closed."

13. Accordingly, the impugned disqualification slip dated 01.10.2020 is quashed. Consequently, the respondent is called upon to conduct a fresh height measurement test on the petitioner by taking into account the observations made in this order and take further course in the selection process, subject to the outcome of the test results. The respondent shall endeavour to conduct the height measurement test atleast within a week from the date of receipt of a copy of this order."



5. The learned Additional Advocate General appearing for the respondent submitted that already selection process is over and there is no vacancy. The petitioner was given three chances and all the three chances resulted foul. The petitioner has given representation only after five months of participation of the Physical Efficiency Test. The petitioner is not entitled for the relief sought for in this writ petition. The respondent published the provisional selection list on 15.04.2021 for Sub Inspector of Police for the year 2019. If the case of the petitioner is accepted, there is a possibility of other candidates to file writ petitions seeking similar relief and it will stall the entire selection process and prayed for dismissal of the writ petition.

6. From the above rival submissions, it is seen that the petitioner was successful in the written examination held on 12.01.2020, physical measurement and physical endurance test in the selection process conducted by the respondent for appointment of Sub Inspector of Police. The petitioner was called upon to appear for Physical Efficiency Test on 14.10.2020. The petitioner attended the test on that day. He was successful in the rope climbing. But, he failed in long jump test. He was given three chances and in all the three chances, he was found foul play. Hence, the petitioner was issued with impugned disqualification slip on 14.10.2020. The petitioner after six months of failure in the Physical Efficiency Test and after issuance of disqualification slip, gave representation to the respondent to reconduct the Physical Efficiency Test and has sought for another chance to participate in the Physical Efficiency Test. The petitioner has sought for another chance on the ground that he suffered injury on the right leg two days prior to the date of the test conducted by the respondent. The petitioner approached the respondent by giving representation after six months of the impugned disqualification slip. The petitioner without disclosing his alleged injuries or producing the medical certificate relied on now before this Court, participated in the Physical Efficiency Test without any protest. He was successful in 6 meter rope climbing, but he was foul in three chances for high jump. If really, the petitioner could not perform his test due to the injuries, he ought to have informed the authorities by showing the medical certificates produced now before this Court and sought for postponement of Physical Efficiency Test. In the order relied on by the learned counsel for the petitioner, ***dated 27.09.2018*** made in ***W.P (MD)No.20316 of 2018 (A.Arunpandian vs. the Member Secretary TNUSRB and others)***, the petitioner therein while standing in the queue for attending the physical endurance test in front of second respondent's office therein, he was hit by unknown car and he was admitted in Virudhunagar Government Hospital, wherein it was diagnosed that his left collar bone was broken and after intensive treatment in a private hospital, subsequently, he was discharged from the hospital in the afternoon of 08.09.2018, which made him impossible to attend the 2nd stage of physical examination.



7. In view of the same, the petitioner therein could not participate in the physical endurance test and sought for another opportunity to participate in the test. In the said case, the learned Additional Advocate General submitted that selection process was not completed. In such circumstances, this Court directed the respondent to conduct the physical endurance test to the petitioner therein on or before 22.10.2018.

8. In the present case, the petitioner participated in the selection process without disclosing that he was injured and by producing the medical certificate that he was advised by the doctor to take bed rest for four weeks. In view of this fact, the order dated 27.09.2018, relied on by the learned counsel for the petitioner, does not advance the case of the petitioner. As far as the order, **dated 20.01.2021**, made in **W.P(MD)No.14177 of 2020 (G.Vinoth vs. The Chairman, Sub Committee, TNUSRB)** relied on by the learned counsel for the petitioner, is concerned, it relates to measurement of height. The issue in the said writ petition has nothing to do with the present writ petition and not applicable to the facts of the present case.

9. In view of the above, the petitioner has not made out any case to quash the impugned disqualification slip. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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/ /2021

Sub Assistant Registrar(CS)

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To

The Tamil Nadu Uniform Service Recruitment Board,
Represented by its Chairman,
Old Commissioner of Police Office,
Pantheon Road, Egmore,
Chennai-600 008.

+1 CC to M/s.P.PETHU RAJESH, Advocate (SR-17413[F] dated 26/04/2021
+1 CC to M/s.SPL GP (SR-17920[F] dated 28/04/2021)

W.P. (MD)No.7136 of 2021
26.04.2021

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