



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON:	18.03.2021
DELIVERED ON:	09.04.2021

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CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD)No.6781 of 2020
and W.M.P. (MD) Nos.6171, 6173 & 6174 of 2020
(Through Video Conference)

A.Menushiya

... Petitioner

Vs.

- 1) The State of Tamil Nadu,
Represented by its Principal Secretary,
Home Department,
Secretariat, St.George Fort, Chennai.
- 2) The Chairman,
Tamil Nadu Uniformed
Services Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore, Chennai 600 008
- 3) The Member Secretary,
Tamil Nadu Uniformed
Services Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore, Chennai 600 008
- 4) The Director General of Police,
Office of the Director General of Police,
Tamil Nadu,
Chennai 600 004

- 5) The Superintendent of Police,
Thoothukudi District,
Thoothukudi .

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of **Certiorarified Mandamus**, to call for the entire records pertaining to the impugned order passed by the 5th respondent in his proceeding Na.Ka.No.A5/19292/353/2019 dated 11.05.2020, quash the same and further direct the respondents to consider the petitioner's appointment to the post of Grade II Police Constable, Grade II Jail Warders and Fireman 2019 called for by the

<https://hcservices.ecourts.gov.in/hcservices/>



notification made by the 3rd respondent on 06.03.2019 vide Advertisement No.1/2019.

For Petitioner : Mr.P.Pethu Rajesh

For Respondents : Mr.K.Chellapandian,
Additional Advocate General

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ORDER

The petitioner's candidature, during the Common Recruitment Process-2019 conducted by the Tamil Nadu Uniformed Services Recruitment Board (TNUSRB), was rejected through the impugned order passed by the 5th respondent in his proceeding Na.Ka.No.A5/19292/353/2019 dated 11.05.2020, on the ground that 'her eye is unfit due to refractive error'.

2. This Court, by its order passed in a batch of writ petitions in the case of **M.Salai Gayathri and others vs. State of Tamil Nadu, Home Department and others** in W.P.(MD) Nos.5441 of 2019...etc batch, dated 30.04.2019 had held that, defect in the eye vision would not interfere with the normal functioning of an individual and therefore, it cannot be a bar for public employment. The relevant portion of the order reads as follows:

"14. It is a settled law that a physical defect or deformity, which in no way interfere with the normal or efficient functioning, should not be considered as an absolute bar to public employment in regard to the posts not associated with physical activity.

15. As far as the petitioners herein are concerned, they were disqualified for appointment to the post in question, even though they successfully passed in the tests conducted by the respondents, on the ground that they do not possess the required visual standard. This Court is of the view that if such defect does not come in the way of their normal functioning and can be corrected, the petitioners should not be treated as medically unfit for the post in question. Now-a-days, the technology has developed well and gone beyond our imagination. Time is not far off to see the planets and Mars through lens from this world. The eye vision pointed out by the respondents can easily be cured by the petitioners by various scientific methods. Hence, denying the employment opportunity to the petitioners on the ground of deviation in the visual standard, citing a new rule, which is not at all referred to in the notification, is arbitrary and illegal.

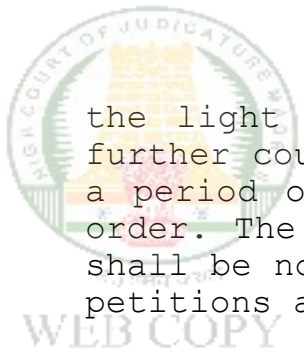


16. It is to be pointed out at this juncture that either to formulate or enforce a policy not to consider any candidate for employment irrespective of the fact whether he is medically unfit or fit, is nothing but short of arbitrariness and shows a baseless prejudice against such candidate. No authority can formulate a policy relating to appointment with such arbitrariness. Normally, the Courts will not interfere with the standards fixed by an authority to ascertain medical fitness of a person for employment. But the Courts will interfere with an arbitrary prohibition to appointment in absolute terms merely on a physical defect or deformity, which is not shown to have any effect on the normal and efficient functioning of the person in the post and it can be corrected. There can be no doubt that different standards of fitness may be required for different types of posts. But what is required is mental alertness and mental capability and physical fitness, which will ensure efficient discharge of his functions. So long as the defect or deformity can be corrected and it has no effect on the efficient and normal functioning of the person, the defect by itself cannot be a ground to disentitle him for being considered for that post.

17. In view of the foregoing reasons as well as taking into consideration the pitiable situation of the petitioners, whose candidatures were rejected due to lack of eye-vision, which can be rectified owing to technology as-on-today, and they are functioning like any other person normally, this Court deems it fit to set aside the impugned orders, as it cannot be sustained in the eye of law. Accordingly, the impugned orders are set aside. The respondents are directed to consider the candidatures of the petitioners for appointment to the post of Sub-Inspector of Police (Technical) and (Finger Print) 2018, if they are otherwise found eligible."

3. Apparently, the order of this Court has not been taken into consideration by the Appointing Authorities while rejecting the petitioner's candidature. When this Court had specifically held that eye defects which are rectifiable owing to modern technology 'cannot be a bar for public employment', the rejection of the petitioner's candidature may require reconsideration.

4. Accordingly, there shall be a direction to the fifth respondent herein to re-scrutinize the petitioner's candidature, in



the light of the observations made in the present order and take further course of action, in the recruitment process, atleast within a period of six weeks from the date of receipt of a copy of this order. The writ petition stands allowed accordingly. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

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/ /2021

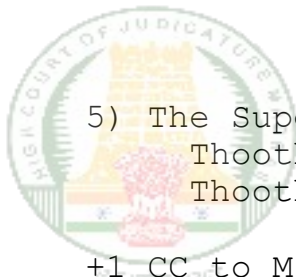
Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To:

- 1) The Principal Secretary,
State of Tamil Nadu, Home Department,
Secretariat, St.George Fort, Chennai.
- 2) The Chairman,
Tamil Nadu Uniformed
Services Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore, Chennai 600 008
- 3) The Member Secretary,
Tamil Nadu Uniformed
Services Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore, Chennai 600 008
- 4) The Director General of Police,
Office of the Director General of Police,
Tamil Nadu, Chennai 600 004



5) The Superintendent of Police,
Thoothukudi District,
Thoothukudi .

+1 CC to M/s.P.PETHU RAJESH, Advocate(SR-15710[F] dated
09/04/2021)

+1 CC to M/s.SPL GP (SR-16043[F] dated 16/04/2021)

Order made in

W.P. (MD)No.6781 of 2020

Dated:

09.04.2021

RM(05.05.2021) 5P 8C