



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Judgment	Date of pronouncing the Judgment
01.07.2021	06.07.2021

CORAM :
THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A. (MD) No.1049 of 2021
and
CMP (MD) No.4695 of 2021

Thirumurugan

.. Appellant/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/Respondent

PRAYER : Appeal filed under Clause 15 of Letters Patent Act, to set aside the order, dated 26.04.2021 passed in W.P.(MD) No.7136 of 2021.

Prayer in WP(MD). 7136/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court S-4. To issue a Writ in the nature of Writ of Mandamus or any other writ or direction to direct the respondent to re- conduct the (PET) Physical efficiency test for the petitioner , as per his representation dated 18/03/2021 , and to thereby render justice.

For Appellant : Mr.Mr.P.Pethu Rajesh
For Respondent : Mr.Veerakathiravan,
Senior counsel for State Government
assisted by
Mr.R.Baskaran
Standing counsel for Government



JUDGMENT

This appeal is filed against the order passed by the learned Single Judge of this Court in W.P.(MD)No.7136 of 2021, dated 26.04.2021, filed by the appellant/petitioner herein against the respondent to issue writ of Mandamus, to call for the proceedings of respondent, in C.No.R2/860/2019, set aside the same and direct the respondent to re-conduct the physical efficiency test (PET) for him as per his representation, dated 18.03.2021.

2.According to the appellant/petitioner, he is a B.E., graduate as well as 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 appellant/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 appellant/petitioner to appear for physical measurement and physical endurance test at Rajarathinam Stadium, Chennai, on 01.10.2020. The appellant/petitioner was successful in both the tests. The respondent fixed the date of Physical Efficiency Test on 14.10.2020. The appellant/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 appellant/petitioner suffered injury on his right leg- Gastrocnemius Muscle and Peroneus Longus and advised him to take bed rest for four weeks. The appellant/petitioner did not want to miss out the chance in participating the test and participated in the test conducted on 14.10.2020. The appellant/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 and strain of the long jump and therefore, in all the three chances, he was foul play. The appellant/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.Aggrieved by the said proceedings, the appellant/petitioner filed writ petition in W.P.(MD)No.7136 of 2021. In support of his case, the appellant/writ petitioner relied on the order of this Court in ***W.P. (MD)No.14177 of 2020, dated 20.01.2021(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."

4. The learned Senior Counsel for State Government assisted by the learned Standing Counsel for State Government appearing for the respondent submitted that the appellant/petitioner herein belonging to SC community was a candidate to the said recruitment with Enrollment No.2510207. The appellant/petitioner cleared the written examination held on 12.01.2020 and was called for Physical Measurement Test/Endurance Test/Physical Efficiency Test before the Sub-Committee, Chennai. The appellant/petitioner qualified the Physical Measurement Test and Endurance Test held on 01.10.2020 and was called for the Physical Efficiency Test on 14.10.2020. He further submitted that the appellant/petitioner, who appeared for the Physical Efficiency Test on 14.10.2020 chose Long Jump and was issued with chest No.163 in batch 14. During the event of Long Jump he made foul in all the three chances given to him. Hence, the appellant/petitioner was issued with a disqualification slip in C.No.R2/860/2019, dated 14.10.2020 and the same was acknowledged by him.

5. In the present case, the appellant/petitioner participated in the selection process without disclosing the fact that he had



injury on his leg. The medical certificate produced by him also shows that his doctor has advised him to take bed rest for four weeks. The respondent has also admitted the medical certificate as genuine.

6. In spite of the injury he suffered, without disclosing the ailment, the appellant/petitioner participated in the physical efficiency test. In the long jump test, he made foul in all the three chances given to him. So, he was disqualified and disqualification slip was also issued to him on 14.10.2020. He filed writ petition only on 25.03.2021 after five months. It is very unfortunate that when he approached this Court, the selection process was already completed.

7. The selection process was completed and on 15.04.2021, provisional list was also published. At this stage, the appellant/petitioner cannot claim to re-conduct the PET for him. It is for the appellant/petitioner to keep him fit for the test at the time of selection. The appellant/petitioner has no vested right to claim for re-conducting the PET for him. The clock cannot be set back again.

8. The Writ Court rightly rejected the claim of this appellant/petitioner. We have no valid grounds to interfere with the findings of the learned Single Judge.

9. Accordingly, this Writ Appeal is dismissed. The order passed by the learned Single Judge of this Court in W.P.(MD) No.7136 of 2021 dated, 26.04.2021, is hereby confirmed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /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

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-21317[F] dated 06/07/2021)

+1 CC to M/s.SPL GP (SR-21558[F] dated 07/07/2021)

**Judgment made in
W.A. (MD) No.1049 of 2021**

06.07.2021

CN(13.07.2021) 5P 4C