



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.11.2021

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THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P(MD) No.14138 of 2021

and

W.M.P(MD) Nos.11098, 11099 & 11100 of 2021

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A.Mohan Raj

... Petitioner

Vs.

1.The Member Secretary,

Tamil Nadu Uniformed Service Recruitment Board,
Pantheon Road,
Egmore,
Chennai.

2.The Chairman,

TNUSRB,
Trichy Centre,
Trichy.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to impugned disqualification slip issued by the 2nd respondent dated 26.07.2021 and quash the same as illegal and consequently direct the respondents to conduct a fresh Physical Measurement Test for the petitioner (Enrolment Number:2002163) and allow the petitioner to participate in other tests for recruitment of Grade - II Constable, Grade II Jail Warder and Fireman, 2020 within the time limit as stipulated by this Court.

For Petitioner : Mr.K.N.Guru

For Respondents : Mr.Veera. Kathiravan,
Addl. Advocate General,
Assisted by,
Mr.A.K.Manikkam,
Standing Counsel for State.

O R D E R

The writ petition has been filed seeking for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to impugned disqualification slip issued by the 2nd respondent dated 26.07.2021 and quash the same as illegal and consequently direct the respondents to conduct a fresh Physical Measurement Test for the petitioner (Enrolment Number:2002163) and allow the petitioner to participate in other tests for recruitment of Grade - II Constable, Grade II Jail Warder and Fireman, 2020 within the time limit as stipulated by this Court.



2. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents.

3. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

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4. According to the petitioner, pursuant to the notification issued by the second respondent for the post of Sub-Inspector of Police (Grade II Police Constable (Men & Women/Transgender), Grade-II Jail Warder (Men & Women) and Fireman for the year 2020, the petitioner applied and undergone selection process. He successfully came out in the written examination, however, he failed in the Physical Measurement Test. According to the petitioner, even though his chest was measured as 81cms (in normal) and 87cms (in expansion) at the first instance, during the course of second instance, his chest was measured as 82 cms (normal) and 85 cms (expansion). According to the petitioner, the Board has measured wrongly his Chest measurements as 82 cms (normal) and 85 cms (expansion). He preferred an appeal before the Appeal Committee, challenging the same and his chest was measured as 87 cms (in normal) and 89 cms (in expansion) and since the petitioner's chest was expanded only 02 cms, as against the required expansion of 05 cms, he was not qualified. As per notification, the Chest measurements should be 81 cms and that the expansion should be at least not less than 5 cms. According to the petitioner, he satisfied the criteria regarding the chest measurements, however, without properly measuring the same, the 2nd respondent has issued the disqualification slip, which cannot be sustained and it is liable to be set aside.

5. A counter affidavit has been filed on behalf of the respondents, wherein, in para 8, it has been categorically stated that after clearance of the Written Examination, the petitioner was called to appear for Physical Measurement Test before the Sub Committee on 26.07.2021, where, the petitioner had 82 cms as normal chest measurement but had only 85 cms on expansion, showing only 3cms expansion as against the required expansion of 5 cms. On appeal, the petitioner was again measured by the Appeal Committee and had 87.00 cms in the normal chest measurement and had 89.00 cms on expansion as per PET Coding sheet and failing to show 5 cms expansion as mandated, the petitioner was disqualified.

6. Generally, the Constitutional Courts do not interfere with the selection process which would be conducted by following the procedures uniformly to all the candidates, but only on exceptional circumstances i.e. if the process of selection is in violation of the statutory rules or certain malpractices or irregularities occurred on account of the act of the authorities, while conducting the process of selection.



7. In the present case, during the physical test, the petitioner was disqualified since he had 80 cms normal Chest measurement and had 83 cms on expansion as against the minimum required measurements. The petitioner failed to show the required expansion of 5 cms, which is below the prescribed norms. The petitioner disputed that the respondents have not measured properly. This is a disputed fact and this Court while exercising jurisdiction under Article 226 of the Constitution, cannot go into disputed facts and decide the matter. In this regard, it is worthwhile to refer a decision of a First Bench of this Court rendered in W.A.No.285 of 2020, dated 3.6.2020, wherein, it has been observed as under:

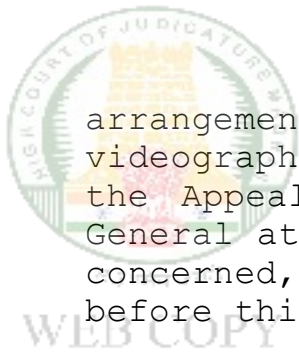
"Heard learned counsel for the appellant and learned Additional Advocate General for the State.

2.The appellant fell short of the required chest expansion measurement for selection on the post of Group-II Police Constable during the selection process. He has come up contending that the procedure deployed for such measurement was defective and that the appellant otherwise has been able to attain the required measurements in another selection relating to CRPF.

3.We have considered the submissions raised and we have also heard the learned Additional Advocate General, who submits that the chest expansion measurement is carried out on the spot at the time of physical inspection which is executed in terms of the rules, and the appellant having failed to acquire the required measurement on expansion, which fell short of 2 cms., there is no reason as to why there should be an interference under Article 226 of the Constitution of India.

4.Having considered the submissions raised, we are of the view that there is no such material so as to indicate either any malafides or any procedural flaw so as to establish that the measurement carried out at the time of chest measurement of the appellant was flawed in any way or was in violation of any rules. There cannot be an enquiry into this, inasmuch as this being a matter of exercise undertaken by the respondents and the absence of any malafides or any violation of the rules or procedural flaw disentitles the appellant from approaching this Court under Article 226 of the Constitution of India."

8. In such circumstances, to clear the doubts, this Court passed an interim order dated 21.10.2021, to make necessary



arrangements enabling the petitioner and his counsel to see the videograph taken on 26.07.2021 before the Sub-Committee as well as the Appeal Committee, in the Office of the Additional Advocate General at Madurai, on 28.10.2021, in the presence of the officers concerned, and thereafter, the respondents shall file a report before this Court on or before 01.11.2021.

9. The learned Additional Advocate General has submitted that in compliance of the order of this Court, the videograph was shown to the petitioner and his counsel at the Office of the Additional Advocate General-III, on 28.10.2021 and the petitioner had failed to show the required expansion of 5 cms in the chest measurement and he has been rightly disqualified. The learned Additional Advocate General has also filed a report before this Court.

10. In view of the aforesaid reasons, this Court does not find any merit in the Writ Petition. Accordingly, the Writ Petition fails and it is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

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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 Member Secretary,
Tamil Nadu Uniformed Service Recruitment Board,
Pantheon Road,
Egmore, Chennai.

2.The Chairman,
TNUSRB,
Trichy Centre, Trichy.

+1 CC to M/s.SPL.GP (SR-33532[F] dated 02/11/2021)

W.P(MD) No.14138 of 2021
01.11.2021