



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.10.2021

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P(MD)No.14978 of 2021

and W.M.P. (MD)Nos.11933 & 11934 of 2021

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B.Thandayutha Pani

... Petitioner

Vs.

1.The Member Secretary,
Tamil Nadu Uniformed Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai - 600 008.

2.The Chairman,
Sub Committee,
Madurai Central,
Madurai District.

3.The Commissioner of Police,
Office of the Commissioner of Police,
Madurai City.

... Respondents

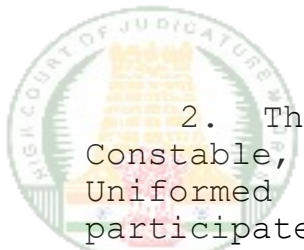
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to conduct physical fitness test in so far as the Rope Climbing is concerned, for second time and to appoint the petitioner in the post of Police Constable Grade II-2020 if the petitioner is otherwise found eligible in second stage physical examination by considering the petitioner's representation dated 16.08.2021.

For Petitioner : Mr.J.Vishnu

For Respondents : Mr.Veerakathiravan,
Addl. Advocate General assisted by
Mr.A.K.Manikkam,
Standing Counsel for State.

ORDER

This Writ Petition has been filed for the issue of a Writ of Mandamus, directing the respondents to conduct physical fitness test, insofar as the Rope Climbing is concerned, for second time and to appoint the petitioner in the post of Police Constable Grade II-2020 if the petitioner is otherwise found eligible in second stage physical examination by considering the petitioner's representation dated 16.08.2021.



2. The writ petitioner applied for the post of Grade-II Constable, Grade II Jail Warders and Firemen in the Tamil Nadu Uniformed Services Recruitment Board 2020. The petitioner participated in the written examination and he successfully passed in the written examination. Thereafter, the petitioner participated in the physical measurement test. The petitioner succeeded in the Physical Measurement Test and Endurance Test. Thereafter, the petitioner participated in the rope climbing test, but he could not secure the required marks. According to the petitioner, inspite of several requests for a second chance to climb, the respondents official without hearing the petitioner's request, declared the petitioner as disqualified. Hence, the petitioner has given a representation on 16.08.2021, seeking to conduct retest for the event of rope climbing. The same was not considered so far. Hence, the petitioner has filed this Writ Petition.

3. Counter affidavit has been filed by the first respondent. In the counter affidavit, it is stated that the Tamil Nadu Uniformed Services Recruitment Board (TNUSRB) issued Notification No.1/2020, dated 17.09.2020, inviting applications for common recruitment to the post of Grade-II Constable, Grade II Jail Warders and Firemen, 2020. The last date of submission of application was 26.10.2020. The written examination was held on 13.12.2020. Candidates, who qualified in the written test were allowed to participate in the Physical Measurement Test/Endurance/Physical Efficiency Test/Certificate Verification. It is further stated in the counter affidavit that the candidates, who have succeeded in the written examination, were called for Physical Measurement Test [PMT] / Endurance Test [ET]. The candidates who qualified in the Physical Measurement Test [PMT] / Endurance Test [ET] were further allowed to attend the Physical Efficiency Test [PET]. The criteria for Physical Efficiency Test, as mentioned in Para 17[A] of the Information Brochure are as follows:

A) PHYSICAL EFFICIENCY TEST: Total marks for PET is 15.

Sl. No	Events		One Star (2 Marks)	Two Stars (5 Marks)
1	Rope climbing		5.0 metres	6.0 metres
2	Long Jump (or)	Long Jump	3.80 metres	4.50 metres
	High Jump	High Jump	1.20 metres	1.40 metres
3	100 mts run (or)	100 mts run	15.00 seconds	13.50 seconds
	400 mts run	400 mts run	80.00 seconds	70.00 seconds



- i. Men candidates will compulsorily have to attend rope climbing. Three chances will be given to the candidates in Rope Climbing during the PET. The best out of three chances will be taken for qualification. The candidates should place their chin above the qualification marking. They should climb only with their hands. Climbing with support of legs or body will lead to disqualification. Those candidates who obtain a minimum of 1-star standard will alone be allowed for subsequent event of Long Jump or High Jump.
- ii. Three chances will be given only for the event of long jump / high jump. The highest score of these three chances will be considered for qualification.
- iii. Only one chance will be given to the candidates for the event 100 metres/400 metres run.

4. It is further stated in the counter affidavit that the candidates should get a minimum of one star in each event, failing which they will be disqualified at the same stage. A candidate should get a minimum of 3 Stars [6 Marks] to get qualified and can achieve a maximum of 6 /stars [15 Marks]. Only the candidates who qualified in the Physical Efficiency Test are allowed for further process. The candidates are given three chances for the event of rope climbing. The candidates have to climb a minimum height of 5.00 mtrs to get 1 star and 6.00 mtrs to get 2 stars. The best out of 3 chances will be noted in the coding sheet. As per the instructions, the following are the officials comprising the Sub-Committee in each district.

Chairperson	SP/DC/Commandant
Members (5)	ADSP -1 DSP-2 Jail Superintendent/Additional Superintendent/Jailor-1 District Fire Officer/Deputy Director (Fire Dept.)-1

5. It is further stated in the counter affidavit that the petitioner had participated in the rope climbing event on 05.08.2021 in batch No.04 at the Madurai Sub Committee as the 1st candidate. The petitioner in the two chances had climbed less than 5 metres. Though a third chance was offered to him, he had declined it. Failing to reach the required minimum height of 5 metres, he was disqualified and was issued with disqualification slip, which was duly acknowledged by the petitioner on 05.08.2021. Without utilizing the given chances, the petitioner had approached this



Court. Hence, the demand of the petitioner to hold retest for the event of rope climbing cannot be conceded with.

6. This Court anxiously considered the rival submissions and also perused the materials available on record.

7. A similar issue came up before the Division Bench of this Court in W.A.(MD)No.792 of 2010, and this Court by order dated 18.03.2010, dismissed the said Writ Appal, wherein it is held as follows:

"The allegations mentioned in the affidavit are all being factual aspects, the writ Court sitting under article 226, cannot entertain the order. However, the Learned Single Judge, while considering the same issue has observed that the appellant having not been successful in proving his efficiency by coming up to the expectations of the selection committee, cannot come to the court with a complaint that the selection committee has failed to put proper or sufficient powder on the rope. When hundreds of candidates were able to participate in the rope climbing test successfully for the reasons that two of the candidates were not able to be successful in the rope climbing test, the writ Court cannot entertain this allegation not hold any roving enquiry. The very fact that the petitioner having become unsuccessful in the physical efficiency test, cannot challenge the method of conducting the physical efficiency test, however, in our considered view, the Learned Single Judge has considered the same, therefore, we do not find any infirmities in the order. Accordingly, Writ Appeal fails and is dismissed, Consequently, connected Miscellaneous Petition is also dismissed."

8. The Division Bench of this Court has clearly held that the writ Court cannot conduct any roving enquiry and the said factual aspect cannot be entertained under Article 226 of the Constitution of India. On a perusal of the records, it is seen that the petitioner in the two chances had climbed less than 5 metres. Though a third chance was offered to him, he had declined it. The learned counsel for the petitioner has not produced any supporting materials to disprove the claim made by the respondents. Therefore, the contention of the petitioner in the affidavit is unacceptable and moreover, there is no force on the contention made by the learned counsel for the petitioner to grant the relief as sought for by the petitioner.

9. In view of the above facts and circumstances of the case and in the light of the decision of the Division Bench of this Court in



W.A.(MD)No.792 of 2010, this Court finds no merit in this Writ Petition. In fine, this Writ Petition is dismissed. No costs. Consequently, the 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 Member Secretary,
Tamil Nadu Uniformed Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai - 600 008.
- 2.The Chairman,
Sub Committee,
Madurai Central,
Madurai District.
- 3.The Commissioner of Police,
Office of the Commissioner of Police,
Madurai City.

+1 CC to M/s.SPL.GP (SR-31209[F] dated 05/10/2021)

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