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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.15629 of 2021

and

W.M.P. (MD) No.12587 of 2021

M.Induja

... Petitioner

-vs-

1.The Member Secretary,
Tamilnadu Uniformed Services Recruitment Board,
Pantheon Road,
Egmore, Chennai-8

2.The Chairman / Member,
Recruitment Sub-Committee,
Tamilnadu Uniformed Services Recruitment Board,
Ramanathapuram Centre,
Ramanathapuram,
Ramanathapuram District.

3.The Superintendent of Police,
District Police Office,
Ramanathapuram District,
Ramanathapuram.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records pertaining to the impugned disqualification slip issued by the second respondent dated 10.08.2021 and quash the same and consequently direct the respondents to include the name of the petitioner in the selected candidates list for the post of Grade II Police Constable Grade II Jail Wardens and Fireman for the year 2020.

For Petitioner : Mr.Gunasekaran.P.
For Respondents : Mr.Veera.Kathiravan
Additional Advocate General
assisted by Mr.A.K.Manikkam
Government Counsel

O R D E R

The prayer in this writ petition is for issuance of a writ of certiorarified mandamus to quash the disqualification slip, dated 10.08.2021, issued by the second respondent and to direct the respondents to include the name of the petitioner in the selected candidates list.



2. According to the petitioner, she has completed B.Sc. (Zoology). The respondent Tamil Nadu Uniformed Services Recruitment Board (TNUSRB) issued Notification No.1/2020, dated 17.09.2020, inviting applications through online mode from 26.09.2020 for the common recruitment to the posts of Grade-II Constable, Grade-II Jail Warder and Fireman. The petitioner applied for the said recruitment and she was assigned with Enrollment No.8201159. The petitioner participated in the written examination and successfully passed in the written examination as well as in the physical measurement test. However, in the Physical Education Test, the petitioner was issued with the impugned order disqualifying her on the ground that she took 39.28 seconds to complete the task of 200 Meter running test. Challenging the same, the petitioner has filed the present writ petition.

3. Further, according to the petitioner, she is a married woman and due to post delivery problem, she could not complete the task within the stipulated time. Further, according to the petitioner, the respondents manually calculated the starting point and the destination point and if digital timer set was used, the exact running time could have been calculated. Therefore, the petitioner prays that if one more opportunity is provided, she would certainly complete the task within the stipulated time.

4. The first respondent has filed a counter affidavit stating that the candidates, who were 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 TNUSRB conducted Physical Measurement Test / Endurance Test / Physical Efficiency Test at 20 Centres from 26.07.2021 onwards and a Sub Committee comprising of the following officials was constituted at each Centre in order to ensure that the recruitment process is conducted in a fair and unbiased manner:

<i>Chairperson</i>	<i>SP/DC/Commandant</i>	
<i>Members (5)</i>	<i>ADSP</i>	<i>1</i>
	<i>DSP</i>	<i>2</i>
	<i>Jail Superintendent / Additional Superintendent / Jailor</i>	<i>1</i>
	<i>District Fire Officer / Deputy Director (Fire Department)</i>	<i>1</i>



5. With regard to the norms for the Physical Efficiency Test for open candidates, it is stated in the counter affidavit as follows:

"(I) PHYSICAL EFFICIENCY TEST : Total marks for PET is 15.

The details of Physical Efficiency Test are as follows:

(II) Women and Transgender candidates:

Sl.No.	Events		One Star (2 Marks)	Two Stars (5 Marks)
1.	Long jump		3.0 metres	3.75 metres
2.	Shortput (or)	4.25 metres	4.25 metres	5.50 metres
	Cricket ball throw	17 metres	17 metres	24 metres
3.	100 mts run (or)	100 mts run	17.50 seconds	15.50 seconds
	200 mts run	200 mts run	38.00 seconds	33.00 seconds

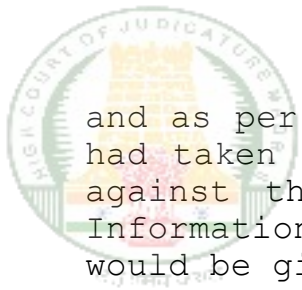
i. Women / Transgender will be given 3 chances for long jump, Shot-Put throw / Cricket ball throw event. The highest score attained in the given three chances will be considered for qualification.

ii. Only one chance will be given to the candidates in 100 metres / 200 metres run."

6. It is further stated in the counter affidavit that in batch No.12 of 200 Metre running event, eight candidates, including the petitioner, were participated. Each of the eight candidates were attached to eight qualified Sports Officers to calculate their running time by using a stop watch. The Sports Officer, who was attached to the petitioner, calculated the running time properly. Further, as per the digital timer set kept on the ground, the petitioner took 39.28 seconds to complete the task. Furthermore, as per Para 17 of the Information Brochure, only one chance will be given to the candidates for 100 / 200 Metre running event. Hence, the Sub Committee has rightly disqualified the petitioner and the prayer to provide one more chance is not maintainable and hence, prayed for dismissal of the writ petition.

7. Heard the learned counsel on either side and carefully perused the materials available on record.

8. The primordial contention raised by the petitioner is that the respondents calculated the running time manually and they have not used any digital timer set. But, according to the respondents, the petitioner along with seven candidates, totally eight candidates, were participated in 200 metre running event in a batch and each candidates were attached to eight qualified Sports Officers and they had calculated the running time in a proper manner



and as per the digital timer set kept on the ground, the petitioner had taken 39.28 seconds to complete the 200 metre running event as against the stipulated time of 38.00 seconds. Further, in the Information Brochure it is clearly mentioned that only one chance would be given to the candidates for 100 / 200 Metre running event.

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9.The Honourable Division Bench of this Court, by order dated 09.09.2015 in W.P.No.26086 of 2015, dismissed the similar relief sought for by holding as follows:

"The petitioner has unfortunately failed to make the cut off in 100 metre run in the Physical Efficiency Test having clocked 18.72 seconds as against the bench mark of 17.50 seconds.

2.It is, thus, not possible to give any relief to the petitioner."

10.This Court, by order dated 04.09.2017 in W.P.No.23785 of 2017 has dismissed the similar writ petition holding that:

3.The learned Additional Advocate General Mr.K.Venkataramani appeared in this matter informed this Court that the Video Clippings are available in respect of the event of 100 meters running in which the writ petitioner had participated. The learned counsel appearing for the writ petitioner Mr.Selvaraj was permitted to view the video clippings and accordingly, the learned counsel viewed the same. Thus, this Court is of the opinion that there is no irregularity or illegality in the process of selection as alleged in the writ petition. Further, with regard to the merit assessment, it is for the competent authorities of the Selection Committee to arrive at a conclusion and the judicial review in this regard are limited. The relative merits are always subject to the satisfaction and the yardsticks and the Rules prescribed for completion of the events. Thus, the other grounds raised in this writ petition cannot be considered, in view of the fact that the writ petitioner was not qualified in the event of 100 meters running and there is no infirmity in the order of rejection as such.

4.Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also closed.



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11.That apart, by Judgment dated 21.01.2020 in W.A.(MD) No.29 of 2020, the Honourable Division Bench has held as follows:

"5.However, the issue involved in the present Writ Petition is a question of fact which cannot be decided in a Writ Petition under Article 226 of the Constitution of India and it is not for the Writ Court to go into the factual disputes as to whether the appellant / writ petitioner had completed 200 meters running in 38 seconds or in 40 seconds. That apart, the second respondent was also not inimical towards the appellant / writ petitioner. In such view of the matter, the learned Single Judge has rightly dismissed the Writ Petition.

6.We do not find any ground to interfere with the order passed by the learned Single Judge. Accordingly, the Writ Appeal is devoid of merits and the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed."

12.Undoubtedly, the dispute raised by the petitioner is a disputed fact and such disputed facts cannot be decided in a writ petition filed under Article 226 of the Constitution of India and the petitioner has not made any other allegation that the respondents have intentionally or inimically disqualified her from participating in the recruitment process. Further, there is no instruction / information in the brochure to show that the petitioner is entitled for retest. Therefore, in such view of the matter, the contentions of the petitioner are unsustainable and the impugned order passed by the second respondent does not warrant any interference of this Court.

13.In the result, the writ petition fails and it is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

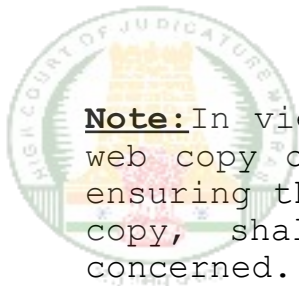
Assistant Registrar (W)

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Sub Assistant Registrar(CS)

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To:

- 1.The Member Secretary,
Tamilnadu Uniformed Services Recruitment Board,
Pantheon Road, Egmore, Chennai-8.
- 2.The Chairman / Member,
Recruitment Sub-Committee,
Tamilnadu Uniformed Services Recruitment Board,
Ramanathapuram Centre,
Ramanathapuram, Ramanathapuram District.
- 3.The Superintendent of Police,
District Police Office,
Ramanathapuram District,
Ramanathapuram.

+1 CC to M/s.SPL.GP (SR-31207[F] dated 05/10/2021)

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NSN (CO)

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