



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.10.2021

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P(MD)No.16172 of 2021

and

W.M.P(MD)No.13042 of 2021

C.Vigneshkumar

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by Principal Secretary to Government,
Home Department (Police)
Fort St.George, Chennai 600 009.

2.The Chairman,
The Tamil Nadu Uniformed Services
Recruitment Board,
807, 2nd Floor, Anna Salai,
Chennai 600 002.

3.The Director General of Police,
Mylapore, Chennai 600 004.

4.The Superintendent of Police,
Madurai District,
Madurai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of 4th respondent disqualifying the petitioner in the rope climbing on 05.08.2021, quash the same and consequently direct the respondents herein to conduct re-test of rope climbing in the Physical Endurance Test and remaining tests for selection in the Common Recruitment for the posts of Grade-II Police Constable, for the year 2020 for further participation of selection process on merit and in accordance with law.

For Petitioner : Mr.J.Padhmaavathi Devi

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



ORDER

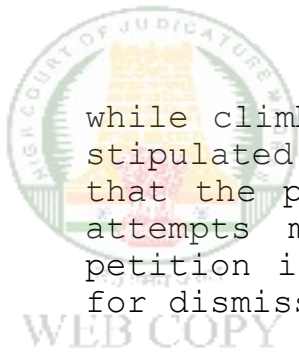
The writ petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of 4th respondent disqualifying the petitioner in the rope climbing on 05.08.2021, quash the same and consequently direct the respondents herein to conduct re-test of rope climbing in the Physical Endurance Test and remaining tests for selection in the Common Recruitment for the posts of Grade-II Police Constable, for the year 2020 for further participation of selection process on merit and in accordance with law.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Advocate General appearing for the respondents.

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

4. According to the petitioner, pursuant to the notification issued by the Tamil Nadu Uniformed Services Recruitment Board, the 1st respondent herein for filling up the post of 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. Thereafter, he participated in physical endurance test on 05.08.2021, wherein, he attended rope climbing and when he was about to reach the destination, due to ligament fracture in his left hand elbow, he fell down and immediately taken to hospital, wherein, one Dr.K.Ravichandran attended to him and gave certificate on the basis of MRI scan that due to over physical exercise and strain, the incident had taken place. According to the petitioner, he is hale and healthy and fully qualified and that falling down is not due to his inability or efficiency, but beyond his control and if he is given one more opportunity, he would complete the test successfully. However, the 4th respondent has issued proceedings on 5.8.2021 disqualifying the petitioner in rope climbing. The petitioner made a representation to the respondents on 13.08.2021 to provide one more opportunity. Since no response was forthcoming, the petitioner is before this Court.

5.A counter affidavit has been filed on behalf of the 2nd respondent, wherein, it has been stated that the petitioner has participated in the Rope climbing event on 05.08.2021 and he was given three chances, wherein, he climbed less than 5 metres in all three attempts. The entire process was video graphed. Since he failed to reach the required minimum height of metres, he was disqualified and accordingly, he was issued with disqualification slip, which was duly acknowledged by the petitioner on 05.08.2021. It is further stated that on careful verification through video records, it is found that the petitioner had just climbed less than 5 metres in three attempts and further, he had locked his legs



while climbing the rope in all three attempts, which is against the stipulated norms. Further, it is also revealed from video recordings that the petitioner did not fall down from the rope in all three attempts made by him and his version as narrated in the writ petition is false. With these averments, the 2nd respondent sought for dismissal of the Writ Petition.

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. In the present case, during the physical endurance test, admittedly, the petitioner was given three attempts, wherein, he had climbed less than 5 metres and further, he locked his legs while climbing, which is against the stipulations. The event of rope climbing by the petitioner was video graphed which revealed that the petitioner did not fall from the rope. Therefore, just in order to claim another opportunity despite being unsuccessful, the petitioner has filed the present Writ Petition. The petitioner failed to come out successful in the physical endurance test. The main reason for his failure as canvassed by the petitioner is that due to ligament fracture sustained by him while performing rope climbing, he fell down. This is a disputed fact and this Court while exercising jurisdiction under Article 226 of the Constitution, cannot go into the disputed fact and decide the matter. In this regard, it is worthwhile to refer a decision of a Division Bench of this Court in W.A.(MD) No.792 of 2010, dated 18.11.2010, wherein, it has been held as under:

"4. The allegations mentioned in the affidavit are all being factual aspects, the Writ Court cannot 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 some 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."

7. Further, no allegation of malpractice or irregularity was attributed by the petitioner against the Board in the selection process. Therefore, when the Board has conducted the selection by following the procedure uniformly to all the candidates, the same will be final and this Court cannot issue any direction to redo the event at the instance of the petitioner.

8. Therefore, this Court does not find any merit to entertain the Writ Petition. Accordingly, the Writ Petition fails and it is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

// 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

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Madurai.



W.P(MD)No.16172 of 2021

+1 CC to M/s.SPL.GP (SR-32256[F] dated 22/10/2021)

W.P (MD) No.16172 of 2021

and

W.M.P (MD) No.13042 of 2021

21.10.2021

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MMS (CO)

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