



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.16591 of 2021

and

W.M.P(MD)Nos.13472 & 13473 of 2021

WEB COPY

P.Sujithkumar

... Petitioner

Vs.

- 1.The Member Secretary,
Tamilnadu Uniformed Services Recruitment Board,
Pantheon Road,
Egmore, Chennai - 600 008.
- 2.The Chairman / Member,
Sub Committee,
The Tamilnadu Uniformed Services Recruitment Board,
Pantheon Road, Egmore, Chennai - 600 008.
- 3.The Chairman-cum-Superintendent of Police,
Sub Committee, Thoothukudi Centre,
Thoothukudi District.

... 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 on the file of the 3rd respondent in pursuant to the impugned order passed by him in his Proceedings No. nil dated 29.07.2021 and quash the same as illegal and arbitrary and consequently direct the respondents to conduct physical measurement test (chest) to the petitioner afresh by a qualified Physical Director within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu
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 the issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the 3rd respondent in pursuant to the impugned order passed by him in his Proceedings No. nil dated 29.07.2021 and quash the same as illegal and arbitrary and consequently direct the respondents to conduct physical measurement test (chest) to the petitioner afresh by a qualified Physical Director within the time limit that may be stipulated by this Court.



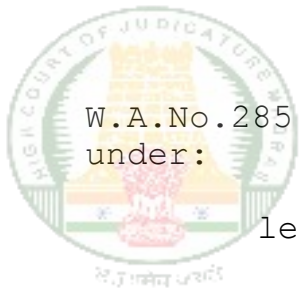
2. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents.

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

4. According to the petitioner, pursuant to the notification issued by the 3rd respondent for the posts of Sub-Inspector of Police (Grade II Police Constable (Men & Women/Transgender), Grade-II Jail Warder (Men & Women) and Firemen for the year 2020, the petitioner applied and undergone selection process. He successfully came out in written examination, however, he failed in the physical test. According to the petitioner, during the chest measurement, the petitioner had 81 cm in normal and 86 cm in expansion and informed that he was qualified in the Physical Measurement Test. But, the Board has re-measured wrongly his Chest measurements as 80 cms (normal) and issued the impugned Disqualification Slip even without providing the petitioner an Appeal remedy. According to the petitioner, he satisfied the criteria regarding the chest measurements, however, re-measuring wrongly, the 2nd respondent issued 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 29.07.2021, where, the petitioner had 76 cms as normal chest measurement as against the required measurement of 81 cm. On appeal, the petitioner was again measured by the Appeal Committee and had 80.00 cms in the normal chest measurement. Failing to show the minimum chest measurement of 81cm in normal state 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. In the present case, during the physical test, the petitioner was disqualified since he had 80 cms in 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 the disputed fact and decide the matter. In this regard, it is worthwhile to



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."

7. For the foregoing reasons, this Court does not find any merit in the Writ Petition to entertain the same. Accordingly, the Writ Petition fails and it is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

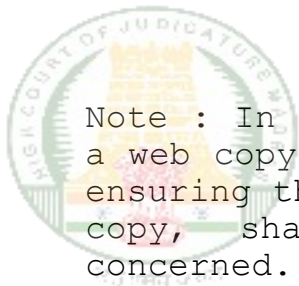
Assistant Registrar (CS-II)

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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.

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To

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- 2.The Chairman / Member,
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The Tamilnadu Uniformed Services Recruitment Board,
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Egmore,
Chennai - 600 008.
- 3.The Chairman-cum-Superintendent of Police,
Sub Committee, Thoothukudi Centre,
Thoothukudi District.

+1 CC to M/s.SPL.GP (SR-32252[F] dated 22/10/2021)

W.P (MD) No.16591 of 2021
21.10.2021

SAR(CO)
GC/PM(17.11.2021) 4P 5C