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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.24162 OF 2021

Savithiri

... Petitioner

.Vs.

1. The Chairman,
The Tamil Nadu Uniformed Services
Recruitment Board,
Old Commissioner Office Campus,
Pantheon Road, Egmore,
Chennai - 600 008.
2. The Member Secretary,
The Tamil Nadu Uniformed Services
Recruitment Board,
Old Commissioner Office Campus,
Pantheon Road, Egmore,
Chennai - 600 008.
3. The Chairperson,
The Sub-committee, Cuddalore Centre
& Superintendent of Police,
Cuddalore District.

... Respondents

PRAYER:-

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to consider the petitioners representation dated 24.09.2021 and consequently direct the 2nd respondent to conduct Re-Physical Measurement Test (PMT) for the petitioner in the Post of (Grade-II Police Constable/Grade-II Jail Warder/and Fireman) called for by the 2nd respondent.

For Petitioner : Mr.S.Silambu Selvan

For Respondents : Mr.P.Kumaresan
Nos.1 & 2 Additional Advocate General
Assisted by Mr.J.Daniel



For Respondent : Mrs.S.Anitha
No.3 Special Government Pleader

O R D E R

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According to the petitioner, the petitioner passed written examination conducted by the second respondent for the post of Grade II Police Constable/Grade II Jail Warder/Fireman. The petitioner was allowed to participate in the physical measurement test and Certificate verification in the ratio of 1 : 5 from 26.7.2021 to 18.8.2021. The petitioner appeared in the physical measurement test conducted by the third respondent on 3.8.2021 and her height was found to be 155.0 cm. The required height measurement for SC women being 157 cm., and the same was communicated to the petitioner with disqualification slip which was duly acknowledged by the petitioner on 3.8.2021. Therefore, the petitioner was not selected for the post of Grade II Police Constable.

2. According to the petitioner, the measurement taken by the respondent is not corrected and therefore, opportunity should be granted to the petitioner to remeasure the height of the petitioner. Hence, the petitioner has filed the present writ petition before this Court.

3. Counter affidavit has been filed by the respondent wherein it is stated that the petitioner's height was measured by the Cuddalore Sub Committee on 03.08.2021. According to the respondent, the required height for SC Woman is 157 cm., but the petitioner's height is only 155 cm. and therefore, the petitioner was disqualified from the selection list. The respondent also relied on the decisions of the Hon'ble Supreme Court in Manish Kumar Vs. Union of India and others [W.P.(c) No.183 of 2013 dated 24.4.2017 and the Division Bench judgment in W.A.(Md) No.1295 of 2015 dated 1.2.2016.

4. Heard the rival submissions of the parties and perused the materials available on record.

5. This Court while deciding the identical issue in Ananthakumar vs. The Chairman, Tamil Nadu Uniformed Services Recruitment Board, Egmore, Chennai - 600 008 [W.P.(Md) No.14421 of 2021 and W.M.P. (MD) No.11359 of 2021] has held as under:

'8. 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 Appeal, wherein it is held as follows:



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"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."

9. 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. The learned counsel for the petitioner has not produced any supporting materials to disprove the claim made by the respondents. In the affidavit, the petitioner has stated that he participated in the rope climbing test and he secured one star in the first chance and thereafter, he could not able to participate, due to the injury sustained by him. However, in the counter affidavit, it is stated that the petitioner was given three chances, but he failed to succeed. Therefore, the contention of the learned counsel for the petitioner 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.'

6. On perusal of record shows that physical measurement was conducted on 13.8.2021 and as per the notification, the result



of the physical measurement was communicated to the petitioner on the same day. The petitioner also signed in the relevant record. The respondent as per the coding sheet, recorded the entire physical measurement in the coding sheet. But the petitioner has not made any objection or made request to prefer an appeal. Further, the petitioner has not made any complaint to the authorities on 13.8.2021. The writ petitioner has approached this Court only in the month of October, 2021 after the lapse of two months.

7. In the light of the decisions cited supra, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman,
The Tamil Nadu Uniformed Services
Recruitment Board,
Old Commissioner, Office Campus,
Pantheon Road, Egmore,
Chennai - 600 008.
2. The Member Secretary,
The Tamil Nadu Uniformed Services
Recruitment Board,
Old Commissioner, Office Campus,
Pantheon Road, Egmore,
Chennai - 600 008.
3. The Chairperson,
The Sub-committee, Cuddalore Centre &
Superintendent Of Police,
Cuddalore District.

+1cc to Mr.S.Silambu Selvan, Advocate, S.R.No.24051
+1cc to the Government Pleader, S.R.No.23862

W.P.NO.24162 OF 2021

MT(CO)
PBS/22/04/2022