



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 21.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P (MD)No.6819 of 2020

and

W.M.P (MD)No.6218 of 2020

V.Nivetha

... Petitioner

Vs

1.The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai-8.

2.The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office campus,
Pantheon Road, Egmore,
Chennai-8.

3.The Member,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office campus,
Pantheon Road, Egmore,
Chennai-8.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus, directing the respondents to select the petitioner for employment as Grade-II, Police Constable by their notification dated 06.03.2019, direct recruitment period of 2019, in the light of the direction issued by this Court dated 07.01.2019 in W.P.No.35631 of 2018.

For Petitioner : Mr.J.John

For Respondents : Mr.Veerakathiravan,
Additional Advocate General,
assisted by Mr.S.Saji Bino,
Special Government Pleader



ORDER

This writ petition is filed for a mandamus to the respondents to select the petitioner as Grade II Police Constable.

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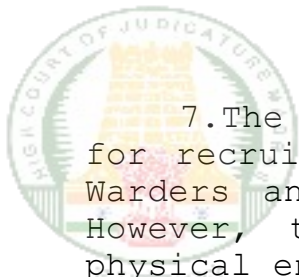
2.The petitioner has participated in the selection process for recruitment to the post of Gr.II Police Constable, Gr.II Jail Warders and Firemen, 2019. She has appeared in the written test and she has been permitted to appear in the physical endurance test. However, when she appeared for physical endurance test, she was not allowed stating that she was unfit for the physical endurance test due to her pregnancy. Therefore, the petitioner is before this Court.

3.The learned Counsel for the petitioner claims that a similarly placed pregnant woman has filed a writ petition before this Court in W.P.No.30538 of 2018 and this Court allowed the writ petition by order dated 07.01.2019 directing the respondents to conduct the physical endurance test separately.

4.Based on the directions issued by this Court, the petitioner therein addressed a letter to the Additional Chief Secretary, Home, Prohibition and Exercise Department, Secretariat, Chennai in RC.No.D2/5020/2018, dated 05.07.2019 for framing certain guidelines with regard to the pregnant candidates and the Government has also accepted the recommendations of the Court and passed a Government Order vide G.O.(Ms)No.682 Home (Police-III) Department dated 28.11.2019, for conducting separate physical endurance test for pregnant candidates, after the child birth. Therefore, the petitioner pleads for considering her case also in line with the said Government Order.

5.The learned Additional Advocate General appearing for the respondents submits that the Government by considering the case of the petitioner in W.P(MD)No.30538 of 2018 has passed a Government Order vide G.O.(Ms).No.682 Home (Police-III) Department dated 28.11.2019, for conducting separate physical endurance test for pregnant candidates, after the child birth. Since the issuance of the said Government Order, the respondents are conducting physical endurance test separately, i.e., from 28.11.2019, unfortunately, the case of the petitioner was rejected on 08.11.2019 itself much before the date of issuance of the said Government Order and therefore, the said Government Order cannot be implemented retrospectively to the petitioner's case.

6.This Court paid its anxious consideration to the rival submissions and perused the materials placed on record.



7.The petitioner, who has participated in the selection process for recruitment to the post of Gr.II Police Constable, Gr.II Jail Warders and Firemen, 2019 has completed the written examination. However, the petitioner was not allowed to participate in the physical endurance test stating that the petitioner was pregnant. It is seen that this Court in W.P.No.30538 of 2018, by order dated 07.01.2019 directed the respondents to conduct physical endurance test for a similarly placed pregnant candidate, after childbirth and the Government also accepting the suggestions made thereon has issued a Government Order vide G.O.Ms.No.682 Home (Police-III) Department dated 28.11.2019. Unfortunately, the petitioner's claim was rejected on 08.11.2019, twenty days prior to the issuance of the said Government Order. Since similarly placed persons are being considered by the respondents, based on the said Government order in G.O.Ms.No.682, dated 08.11.2019 and the petitioner's case shall also be considered.

8.In the light of the above discussion, this writ petition is allowed and the respondents shall consider the case of the petitioner by permitting her to take part in the physical endurance test to be conducted by them for the future recruitment process by taking into consideration the marks obtained by the petitioner in the year 2019 and proceed further. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

dsk

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 Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai.



2.The Member Secretary,
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3.The Member,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office campus,
Pantheon Road, Egmore, Chennai.

+1 CC to M/s.SPL.GP (SR-2359[F] dated 25/01/2022)

W.P (MD) No. 6819 of 2020
21.01.2022

RK(10/03/2022) 4P 5C