



W.P.(MD) No.12313 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.12313 of 2021

and W.M.P. (MD) No.9666 of 2021

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R.Karthick Ramesh

... Petitioner

vs.

1.The Director General of Police
Tamil Nadu Uniform Services Recruitment Board
Chennai

2.The Member Secretary
Tamil Nadu Uniform Services Recruitment Board
Chennai

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records pertaining to the order passed by the 1st respondent in his proceedings in Na.Ka.No.R4/2225/2021, dated 23.06.2021 and quash the same and direct the respondents to conduct the physical efficiency test for the petitioner to participate 400 mtrs running and long jump so as to enable the petitioner to prove his efficiency for the selection to the post of Sub-Inspector of Police (Taluk, Armed Reserved and Tamil Nadu Special Police) as per Notification No.2 of 2019 dated 08.03.2019.

For Petitioner : Mr.Panneer Selvam.V.

For Respondents : Mr.Veera Kathiravan
Additional Advocate General
assisted by Mr.A.K.Manikkam
Special Government Pleader

O R D E R

The order of rejection, dated 23.06.2021, passed by the first respondent, rejecting the claim of the petitioner for selection to the post of Sub-Inspector of Police, is under challenge in this writ petition.

2. The petitioner is an in-service candidate and he was initially appointed as Grade-II Police Constable. The petitioner participated in the selection process for selection to the post of Sub Inspector of Police. He was successful in the written examination and participated in the physical efficiency test. The petitioner was qualified in 400 Meters running event also, however, he scored lesser mark in the said event and therefore, he was not selected.



3. The learned counsel appearing for the petitioner made a submission that such cases are to be considered sympathetically. Therefore, the petitioner must be given one more opportunity to participate in the physical efficiency test i.e. 400 Meters running event.

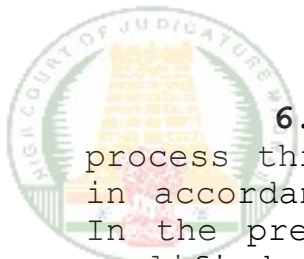
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4. The learned Additional Advocate General appearing for the respondents relied on the Judgment of this Court in W.A.(MD) No.1706 of 2021, dated 26.10.2021, wherein a similar issue was considered and the Honourable Division Bench allowed the writ appeal filed by the Director General of Police. The relevant paragraphs of the said Judgment are extracted hereunder:

4. The petitioner participated in the process without any reservation and failed to make the mark. The fact that four days later the petitioner was discovered to have contracted the disease is no ground for any discretion to be exercised in favour of the petitioner and a special test required to be conducted at a time when the recruitment process has already been concluded.

5. The writ petitioner submits that there are other instances where similar considerations had been shown to persons, who may not have fared well in the physical ability test. As a matter of principle, it cannot be accepted as a legal proposition that merely because a person was unable to perform upto his expectations on the date that the physical ability test was scheduled, such person has to be afforded a subsequent opportunity to demonstrate his physical ability or the extent of his fitness. Further, since Article 14 of the Constitution does not operate in a negative sense, if a few persons have been erroneously conferred a benefit that they may not have been entitled to, the same cannot be cited as an instance to perpetuate the wrong."

5. This Court is of the considered opinion that High Court cannot grant such an opportunity to the candidates, who had already participated and was unsuccessful in the selection process. In the event of allowing a failed candidate to participate in the selection process by providing one more opportunity, many such failed candidates will also claim such a relief. This apart, the physical verification test was conducted by the Competent Selection Authorities and once the petitioner was not qualified in the selection process, the question of providing another opportunity would not arise at all and granting such a relief is beyond the scope of judicial review under Article 226 of the Constitution of India.



6. The power of judicial review is to scrutinize the process through the decision taken by the Competent Authorities is in accordance with the rules or not, but not the decision itself. In the present case, the decision is that the petitioner was not qualified in the physical efficiency test as he scored lesser mark in 400 Meters running event. This being the factum, the question of providing one more opportunity to participate in 400 Meters running event would not arise at all and such an opportunity cannot be granted by the High Court in a writ proceedings as it will not only set a bad precedent, but also pave way for many other similarly placed candidates to claim such a relief, which will derail the entire selection process.

7. At this juncture, the learned counsel for the petitioner made a submission that the petitioner was infected Covid-19 and therefore, he was unable to perform efficiently in the physical efficiency test. However, the fact remains that the petitioner participated in 400 Meters running event and was unsuccessful. Therefore, such grounds cannot be considered by the High Court to undo the selection process already concluded.

8. With the above observations, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD-II)

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/ /2022

Sub Assistant Registrar(CS)

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To:

1.The Director General of Police,
Tamil Nadu Uniform Services Recruitment Board, Chennai.

2.The Member Secretary,
Tamil Nadu Uniform Services Recruitment Board, Chennai.

+1 CC to M/s.SPL.GP. (SR-20522[F] dated 22/04/2022)
+1 CC to M/s.V.PANNEER SELVAM, Advocate (SR-20857[F] dated
25/04/2022)

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