



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:26.04.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

W.P.(MD)No.26885 of 2019

M.Kannathasan

... Petitioner

Vs.

The Chairman cum Deputy Inspector General of Police,
Sub Committee
Tamilnadu Uniformed Service Recruitment Board
Madurai.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the impugned order passed by the respondent in C.No.R2/850/2019 dated 19.11.2019 and quash the same and consequently direct the respondent to conduct the retest of rope climbing for the petitioner based on his request dated 22.11.2019.

For Petitioner : Mr.A.Raja

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

ORDER

The order of rejection rejecting the candidature of the writ petitioner for selection to the post of Grade II Police Constable is under challenge in the present writ petition.

2.Pursuant to the recruitment notification, the petitioner participated in the process of selection. He was successful in written examination. Thus, he was allowed to participate in the physical efficiency test and endurance test. The grievance of the writ petitioner is that in rope climbing, the measurement was erroneously taken by the authorities and therefore, he is deprived of his selection to the post of Grade II Police Constable. Thus, the learned counsel for the petitioner reiterated that a separate rope climbing is to be conducted for the petitioner for the post of Grade II Police Constable for considering him for selection.



3.The learned Additional Advocate General objected the said contention by stating that once unsuccessful, the same cannot be repeated.

4.The issues in this regard are no more res integra. The Division Bench of this Court in W.A.No.792/2010 dated 18.11.2010 held as follows:

"4.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. No costs."

5. The Hon'ble Full Bench of this Court also considered the issue in W.A.Nos.8 to 12 etc. batch dated 29.01.2020 and the relevant paragraph No.42(1) is extracted hereunder:

"42.Having reasoned out the issues raised before us, we accordingly answer the questions as follows:

i. A writ petition under Article 226 of the Constitution of India for correcting any error may ordinarily be not maintainable involving factual disputes, but, on the establishment of a patent factual error leading to prejudice and resulting in violation of legal or fundamental rights or otherwise involving malafides, a writ petition can be entertained under Article 226 of the Constitution of India, in order to avoid or otherwise rectify a denial of opportunity in matters of employment."

6. Therefore, in respect of sports event, the Courts cannot issue a direction to conduct a special test or otherwise or grant repeat the sports event. In view of the facts and



circumstances, the petitioner has not established any acceptable ground for the purpose of interfering with the order of rejection. Accordingly, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (AE)

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/ /2022

Sub Assistant Registrar(CS)

RR

To

The Chairman cum Deputy Inspector General of Police,
Sub Committee
Tamilnadu Uniformed Service Recruitment Board
Madurai.

+1 CC to M/s.SPL.GP. (SR-21839[F] dated 27/04/2022)

W.P. (MD)No.26885 of 2019

26.04.2022

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