



W.P.No.29291 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 10.10.2023

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.29291 of 2023

V.Vigneswaran

...Petitioner

vs.

1.Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai – 600 008.

2.The Director General of Police,
Dr Radhakrishnan Salai,
Mylapore, Chennai – 600 004.

... Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records pertaining to Rc.No.486165/Rect.2(1)/2022 dated 22/07/2022 order passed by the 2nd respondent and quash to C.No.R4/47/0644/2023 dated 24.03.2023 order passed by the 1st respondent and to quash the same and consequently to direct the 1st respondent to give second opportunity of the Physical Efficiency test to the petitioner in respect of the selection of Sub Inspector of Police.



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For Petitioner : Mr.M.Madhu Prakash
For Respondents : Mr.P.Kumaresan for R1
Assisted by Ms.Sowmi Dattan

: Mrs.V.Yamuna Devi for R2
Special Government Pleader

ORDER

This writ petition has been filed seeking for issuance of a Certiorarified Mandamus calling for the records pertaining to Rc.No.486165/Rect.2(1)/2022 dated 22.07.2022 order passed by the 2nd respondent and quash to C.No.R4/47/0644/2023 dated 24.03.2023 order passed by the 1st respondent and to quash the same and consequently to direct the 1st respondent to give second opportunity of the Physical Efficiency test to the petitioner in respect of the selection of Sub Inspector of Police.

2. The case of the petitioner is that, he was working in the Police Department as Constable Grade-II from 01.03.2002 on wards and served the Department to the best of his abilities for the past 21 years and currently working as a Head Constable in Law and Order Division of 1-8 Neelangarai



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Police Station. From his childhood he wanted to become a Police Officer and had prepared his physique for that purpose and became a good sports person. He had participated in Tadakalam (100m, 200m, 4x100m, 1500m, long jump, Javeline Throw and Mini Marathon) in school, college and Police Department and have won gold and silver medals awarded by the Tamil Nadu Police Department five time consecutively in State Level (100m, 200m, 4x100m Relay) and have been representing the Department in Nationals.

3. While that being so, there was recruitment for the post of Sub Inspector of Police and the petitioner applied for the same under 20 percent quota which was allotted for the existing Department person. The petitioner had cleared his written test and endurance test which is for 85 marks and 40 marks for running 1500 meters in 7 minutes.

4. The learned counsel for the petitioner further submits that the petitioner cleared the written test and had secured 65.5 marks out of 85 and qualified for the next level of endurance test. On 04.04.2015, when he was



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prepared to said test, he had a stomach infection and it stated dehydrating.

Therefore, he was admitted in the Police Hospital for treatment; and that he managed to perform the test, when he was around 50 meters to complete the endurance test, he fainted in the ground and his candidature was not considered and rejected by the authorities since, he could not complete the endurance test.

5. The petitioner had given many representations to the concerned authorities and the same were repeatedly denied. Again on 22.01.2022 he gave a representation for the same to the 2nd respondent and the 2nd respondent rejected the said representation stating that recruitment process for the post of Sub Inspector of Police for two other batches have been already been completed and the selected candidates are presently working in various places and the recruitment for next two batches for 2019-2022 was also finalised by the Board. Therefore, at this juncture, it was not possible for the authorities to give an another opportunity to the petitioner and further stated that the OMR coding answer sheets relating to the recruitment of 2015 was destroyed as per the guidelines issued by the Government in



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G.O.(3D) No.60, Home (Pol-3) Department, dated 25.11.2011. The petitioner states that he still could be appointed by conducting a test in a open quota by giving another opportunity for completing the said test. The Rejection Order was issued on 22.07.2022 by the 2nd respondent bearing Rc.No.48165/Rect.2(1)/2022. Aggrieved over the said rejection order, the petitioner gave another representation, dated 21.02.2022 to the 1st respondent requesting for an opportunity for the endurance test, whereas, the 1st respondent also confirmed the order passed by the 2nd respondent. Hence, the petitioner has come forward with the present Writ Petition.

6. Heard Mr.M.Madhu Prakash, learned counsel for the petitioner and Mr.P.Kumaresan, learned Additional Advocate General, assisted by Ms.Sowmi Dattan for 1st respondent and Mrs.V.Yamuna Devi, learned Special Government Pleader for 2nd respondent.

7. The learned counsel for the petitioner submitted that the petitioner is at present working as a Head Constable in Law and Order Division of 1-8 Neelangarai Police Station. From his childhood he aspired to



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become a Police Officer and had prepared his physique for that purpose and became a good sports person. He had participated in Tadakalam in various stages and had won gold and silver medals awarded by the Tamil Nadu Police Department five times consecutively in State Level and have been representing the Department in Nationals. Meanwhile, the Department called for recruitment for the post of Sub Inspector of Police and the petitioner applied for the same. The petitioner had cleared his written test and while attending endurance test, he fainted in the ground and his candidature was not considered and rejected by the authorities since, he could complete the endurance test. Therefore, the petitioner gave a representation, dated 22.01.2022 to the 2nd respondent and the same was rejected. Subsequently, he gave another representation to the 1st respondent, wherein the same was rejected confirming the order of the 2nd respondent.

8. Though very many grounds have been raised in this Writ Petition, learned counsel for the petitioner submits that it would suffice if this Court issues a direction to 1st respondent to give a second opportunity of the Physical Efficiency Test to the petitioner in respect of the selection of Sub



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Inspector of Police. Hence, prayed for allowing this Writ Petition.

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9. Mr.P.Kumaresan, learned Additional Advocate General, appearing for the 1st respondent would submit that a similar case was considered by the Division Bench of this Court in W.A.(MD).No.1706 of 2021, and the Division Bench vide its order, dated 26.10.2021 allowed the Writ Appeal by denying the opportunity to the petitioner therein. In that case, the petitioner was engaged in COVID-19 protection duty and had been infected. He took treatment from 17.10.2021 to 23.10.2021 in a Government Hospital. Indeed the physical fitness test was convened on 13.10.2020 prior to the petitioner obtaining treatment for being infected with COVID. The petitioner therein participated in the physical fitness test and obtained two stars in rope-climbing and long jump but obtained one star in the running race and was not selected.

10. The petitioner herein, who had participated in the recruitment process had not completed the said endurance test stating that he was dehydrated. It is to be seen that no discretion can be exercised in favour of



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the petitioner and there cannot be any special test to be conducted at this juncture and that the recruitment process has already been completed for the year 2015, 2019 and 2021. The petitioner, knocking the doors of this Court at this belated period and the delay in laches is also not accepted and that the petitioner has not shown any material to show that he was not able to perform only due to the above said fact. As rightly pointed out by the learned Additional Advocate General, in a similar case, the Division Bench of this Court had allowed the appeal rejecting the opportunity to the petitioner therein. For better appreciation, the relevant paragraph of the said order is 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



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instances wheresimilar 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.”

In view of the above judgment of the Division Bench of this Court, this Court is not inclined to interfere with the order passed by the respondents and hence, this Writ Petition is liable to dismissed.

11. With the above observations, this Writ Petition is dismissed. No cost.



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Index : Yes/No

Speaking order : Yes/No

Neutral Citations : Yes/No

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2.The Director General of Police,
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