

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:27.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.6944 of 2018

D.Muthu Kumar

... Petitioner

Vs.

1.The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
No.807, P.T.Lee Chengalvaraya Naicker Maligai,
Anna Salai, Chennai-600 002.

2.The Director General of Police,
O/o.The Director General of Police Head Office,
Chennai-04.

3.The Commissioner of Police,
Madurai City,
Madurai.

4.The Deputy Commissioner of Police,
Madurai City,
Madurai.

... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the fourth respondent in proceedings in Na.Ka.No.S3/21231/715/2016 dated 02.06.2016, quash the same and consequently, direct the respondents to refer the petitioner to the Medical Board consisting of a team of the Doctors for physical fitness and if found fit, to consider his candidature for the post of Police Constable Grade-II-2012.

For Petitioner	:Mr.K.Maharajan
For Respondents	: Mr.S.P.Maharajan Special Government Pleader

ORDER

This Writ Petition has been filed to call for the records relating to the impugned order passed by the fourth respondent in proceedings in Na.Ka.No.S3/21231/715/2016 dated 02.06.2016, quash the same and direct the respondents to refer the petitioner to the Medical Board consisting of a team of Doctors for physical fitness and if found fit, to consider his candidature for the post of Police Constable Grade-II-2012.

2. The case of the petitioner is that the petitioner had applied for the posts of Grade-II Police Constables, Grade-II Jail Warders and Firemen-2012. He has successfully completed written test, physical measurement and endurance test. Subsequently, medical test was conducted on 22.12.2012 by the third respondent and he was found to be fit. While so, the third respondent vide proceedings dated 04.01.2013 informed that he was not selected, since there is a deformity in his index finger and he is orthopaedically unfit due to mallet finger as per Rule 14(b)(i) of the Tamil Nadu Special Police Subordinate Service Rules, 1978. It is the petitioner's case that he is not having any defect as stated by the respondents and if he is having any defect, he could not have successfully completed the rope climbing test. Hence, the petitioner has filed a writ petition in W.P(MD).No.514 of 2013, challenging the order of disqualification issued by the third respondent. When the said writ petition came up for hearing on 11.01.2013, this Court directed the respondents to refer the petitioner to the Second Medical Board to ascertain his fitness for the appointment. Thereafter, the respondents have

arranged for the second Medical Fitness before the Department of Orthopaedics Surgery and Traumatology, Government Rajaji Hospital Annex, Madurai on 16.04.2013, in which, the same Doctor examined the petitioner. However, the result was not informed to the petitioner. Since the result was not known, he sought information under the Right to Information Act by which a reply was given by the fourth respondent which is the order impugned stating that “*he is having post traumatic flexion contracture of PIP joint of index finger Right hand and Tremors*”. Challenging the same, the Present Writ Petition has been filed.

3. The learned counsel appearing for the petitioner would submit that earlier the medical report was not furnished to the petitioner. Hence, he has filed a writ petition in W.P(MD).No.514 of 2013 and this Court has issued a direction to the respondents to refer the petitioner to the Second Medical Board to ascertain his fitness. Though a Doctor examined him, the result was not informed to him. It is the contention of the learned counsel appearing for the petitioner that when there was no objection raised during the medical test, the impugned reply issued by the

fourth respondent by which rejecting the candidature of the petitioner is *per se* illegal. The petitioner is fully qualified to the post of Grade-II Police Constable. Hence, he prays for passing appropriate orders.

4. The learned Special Government Pleader appearing for the respondents would submit that as per the report issued by the Medical Board declaring the petitioner as Orthopaedically unfit due to mallet finger, he was not selected to the post of Grade-II Police Constable for the year 2012 and the same was informed to him vide proceedings dated 04.01.2013. Challenging the same, he has filed a writ petition in W.P.No. 514 of 2013 before this Court. This Court vide order dated 11.01.2013 has issued a direction to the respondents to refer the petitioner to the second Medical Board to ascertain the fitness. Thereafter, he was examined on 16.04.2013 by the three members of Orthopaedics, Department of Orthopaedics Surgery and Traumatology, Government Rajaji Hospital, Madurai and the Medical Board had opined that he is having Post Traumatic flexion contracture of PIP Joint of index finger Right hand and Tremors and he is medically unfit. Based on the medical

report, the writ petitioner was informed that he was not fit to the post of Grade-II Police Constable by the third respondent vide proceedings dated 26.05.2013. Thereafter, he has sought information from the fourth respondent and Public Information Officer under the Right to Information Act and accordingly, he was informed vide the impugned reply dated 02.06.2016 that he is having Traumatic flexion contracture of PIP Joint of index finger Right hand and Tremors. Hence, there is no illegality or irregularity on the part of the respondents.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

6. The facts in the present case are not in dispute. Admittedly, the petitioner had participated in the selection process to the posts of Grade-II Police Constables, Grade-II Jail Warders and Firemen-2022. He has successfully passed in the written test and physical test. After taking the medical test, it was found that since there is a deformity in his index finger, he is orthopaedically unfit due to mallet finger and hence, he was

not selected to the post of Grade-II Police Constable. Thereafter, he has filed the writ petition in W.P(MD).No.514 of 2013 and this Court vide order dated 11.01.2013 has issued direction to the respondents to refer the petitioner to the second Medical Board as per G.O.Ms.No.1791, Home (Pol.3) Department, dated 14.12.2007, to ascertain his fitness for the appointment. Accordingly, he was examined by the three members of Orthopaedics, Department of Orthopaedics Surgery and Traumatology, Government Rajaji Hospital, Madurai. Thereafter, the Medical Board had opined that “*he is having post traumatic flexion contracture of PIP joint of index finger Right hand and Tremors*”. As per G.O.Ms.No.1791, Home (Pol.3) Department, dated 14.12.2007, the opinion of the Medical Board should be taken as final and once the Medical Board had opined that the petitioner is not fit for the post of Grade-II Police Constable in Uniformed Services, this Court cannot find any substance to interfere with the impugned order passed by the fourth respondent.

7. Accordingly, this Writ Petition is dismissed. No costs.

27.02.2023

NCC: Yes/No
Index: Yes/No
Internet: Yes/No
ssb

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M.DHANDAPANI,J.

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