



W.P.(MD).Nos.22232 & 22246 of 2021

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 17.11.2023

ORDER PRONOUNCED ON : 22.11.2023

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD).Nos.22232 & 22246 of 2021
and WMP(MD).Nos.18774 & 18781 of 2021**

1.BalakrishnanPetitioner in WP.No.22232 of 2021

2.M.SivamathavanPetitioner in WP.No.22246 of 2021

Vs

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

2.The Member Secretary
Tamil Nadu Uniformed Services Recruitment Board
Old Commissioner of Police Office Campus
Pantheon Road
Egmore, Chennai 600 008

....Respondents in both petitions

Common Prayer: These Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st and 2nd respondents to give the benefit of PSTM category to the petitioners and consequently permit the petitioners participate to the certificate verification made in common recruitment to the post of Grade-II Police Constable, Grade-II Jail Warden and Fireman 2020.



W.P(MD).Nos.22232 & 22246 of 2021

(In both petitions)

For Petitioner : Mr.D.Selvanayagam

For Mr.P.Banuprasath

For Respondents :Mr.Veera.Kathiravan
Additional Advocate General
Assisted by Mr.S.Shaji Bino
Special Government Pleader

COMMON ORDER

These petitions have been filed by two aspirants to the post of Grade-II Police Constable, Grade-II/ Jail Warden and Fireman in the Tamil Nadu Uniformed Services Recruitment Board for the selection year 2020 seeking a mandamus directing the first and second respondents to confer the benefit of PSTM category to the petitioners and consequentially prayed to permit the petitioners to participate in the certificate verification.

2.Both the petitioners have submitted their applications for the above said post on 13.10.2020 and they have successfully cleared the written examination that was conducted on 13.12.2020.

3.The petitioner in WP(MD).No.22232 of 2021 was called for physical measurement test on 28.07.2021 and 05.08.2021 and he was successful. The petitioner in WP(MD).No.22246 of 2021 was called for physical measurement test on 27.07.2021 and 05.08.2021 and he was successful in the said test. They have also participated in the certificate verification and produced all their educational and other certificates. Both these petitioners



W.P(MD).Nos.22232 & 22246 of 2021

have sought for appointment under 20% of PSTM quota which is priority category for those candidates who have studied in the Tamil Medium.

4.Both the petitioners belong to scheduled caste community and both of them have secured 59 marks in the writ examination and 15 marks in the physical endurance test and in total, they have secured 74 marks. According to the petitioners, when the result was published in the web-site of the Recruitment Board, they have found that they were not selected. Both of them have contended that having secured 74 marks, they are eligible for being appointed under SC-PSTM quota. Aggrieved over the non-selection, they have sent independent representations on 11.12.2021 and in view of non-consideration of the same, the present writ petitions have been filed seeking a mandamus for appointment.

5.According to the learned counsel appearing for the writ petitioners, as per Clause-8 of the Notification, 20% of PSTM quota would be implemented not in the written examination stage or in the physical endurance test stage, but only at the time of final selection. He had relied upon the Hon'ble Division Bench judgement of our High Court in WP(MD).Nos.19112 of 2020 and others (M.Vigneshwaran and others Vs. The State of Tamil Nadu and another) dated 10.02.2021 wherein the Hon'ble Division Bench was pleased to hold that 20% PSTM quota has to be implemented in the written examination stage as well as in the physical



W.P(MD).Nos.22232 & 22246 of 2021

endurance test stage. Enforcing the said quota at the final selection stage is not legally sustainable. Therefore Clause-8 of the present notification is clearly against the orders of the Hon'ble Division Bench.

6.The learned counsel for the petitioners further relied upon the judgement of the learned Single Judge of this Court in WP(MD).No.12833 of 2021 and others (B.Akkim and another Vs. The State of Tamil Nadu and others) dated 07.01.2022 wherein the judgment of the Hon'ble Division Bench cited supra has been followed. The judgment of the learned Single Judge in WP(MD).No.12833 of 2021 was challenged by the Recruitment Board before the Hon'ble Division Bench in Writ Appeal Nos.1358 of 2023 and others (The Member Secretary, Tamil Nadu Uniformed Services Recruitment Board vs. Apavunkumar and others) and the Hon'ble Division Bench was pleased to dismiss the appeal on 12.09.2023. Therefore, according to the learned counsel appearing for the petitioners, Clause-8 of the Notification which states that 20% PSTM quota would be implemented only in the final stage is not legally sustainable. In case, if 20% quota is implemented at every stage of selection, the petitioners would get selected.

7.The learned counsel for the petitioners had further contended that the petitioners having secured 74 marks are entitled to be considered under SC-PSTM quota or under SC general category. Therefore, looked from any angle, the petitioner would get selected to the post. Hence, he prayed for



W.P(MD).Nos.22232 & 22246 of 2021

allowing the writ petitions with a direction to the authorities to issue appointment orders.

8.Per contra, the learned Additional Advocate General appearing for the respondents had contended that the cut-off marks for SC-PSTM is 74.5 and the petitioners having secured only 74 marks and they are not eligible for appointment. He had further contended that though the cut-off marks for SC general is 74, many scheduled caste candidates have secured the same 74 marks and hence, candidates elder in age have been selected and the petitioners being younger in age could not get selected.

9.The learned Additional Advocate General had further contended that the petitioners herein have not chosen to challenge the notification wherein it has been specifically stated that 20% PSTM would be implemented only in the final stage. Having accepted the notification and applied under the said Notification, the petitioners now cannot turn around and contend that the said Notification is bad in the eye of law. That apart, without challenging the said Notification, the present writ petitions have been filed seeking a mandamus to appoint them. Therefore, the writ petitions are not maintainable.

10.The learned Additional Advocate General had further contended that all the judgments referred to by the learned counsel for the petitioners relate to the recruitment year 2019 and the same cannot be applied for the recruitment year 2020. None of the candidates who had appeared for the



W.P(MD).Nos.22232 & 22246 of 2021

examination in the year 2020 have chosen to challenge Clause-8 of the Notification. Therefore, the reliance placed upon the judgment of the High Court for the selection year 2019, cannot be cited for the recruitment year 2020.

11.I have considered the submissions made on either side and perused the material records.

12.Admittedly the petitioners have not challenged Clause 8 Recruitment Notification which declares that 20% PSTM would be implemented only at the final stage and not at the written examination stage or in the physical endurance test stage. The petitioners have accepted the said notification and participated in the selection process. Thereafter, the petitioners cannot now contend that Clause-8 of the Notification is not valid.

13.The petitioners have passed the written examination and the physical endurance test without the application of 20% PSTM quota and they have reached the final stage of certificate verification. Therefore, the petitioners cannot have any grievance whatsoever for non-implementation of PSTM during the written examination and physical endurance test stage.

14.I have carefully considered the judgments cited on the side of the writ petitioners. A perusal of the judgment would clearly indicate that all those judgments relate to the recruitment year 2019. The Hon'ble Division Bench in WP(MD).Nos.19112 of 2020 and others in paragraph No.15 has



W.P(MD).Nos.22232 & 22246 of 2021

categorically pointed out that the said judgement is applicable only for the petitioners in the said writ petitions. Therefore, the petitioners cannot take advantage of the said judgment or any other judgments which relate to the recruitment year 2019.

15. There is no dispute that both the petitioners have secured 74 marks. The petitioners have enclosed the final provisional list in their typed set of papers which indicates the communal turn, name, marks, date of birth and the department for which they have been selected. The last candidate under SC (PSTM) quota is one K.Uthaya Sankar and he had secured 74.5 marks. Both the petitioners having secured only 74 marks, they are not entitled to be considered for appointment. The same selection list reveals that the last candidate under SC-general category is one S.Prasanth who had secured 74 marks. His date of birth is 29.11.1991.

16. The date of birth of the petitioner in WP(MD).No.22232 of 2021 is 26.10.1996. The date of birth of the petitioner in WP(MD).No.22246 of 2021 is 27.10.1998. As per Clause 20(a) of the Notification, if more than one candidate had secured the same marks, preference would be given to those candidates who are elder in age. In the present case, the last candidate under SC general category who had secured 74 marks as that of the writ petitioners was born in the year 1991 whereas the petitioners were born in the year 1996-1998 respectively. Therefore, the petitioners cannot have any grievance



W.P(MD).Nos.22232 & 22246 of 2021

over their non-selection even after having secured 74 marks.

WEB COPY

17. In view of the above said deliberations, this Court does not find any merit in the writ petitions. Both the writ petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

22.11.2023

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
msa



W.P(MD).Nos.22232 & 22246 of 2021

WEB COPY

To

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

2.The Member Secretary
Tamil Nadu Uniformed Services Recruitment Board
Old Commissioner of Police Office Campus
Pantheon Road
Egmore, Chennai 600 008



WEB COPY



W.P(MD).Nos.22232 & 22246 of 2021

R.VIJAYAKUMAR, J.

msa

Pre-delivery order made in

**W.P.(MD).Nos.22232 & 22246 of 2021
and WMP(MD).Nos.18774 & 18781 of 2021**

22.11.2023