



W.P.No.34244 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 19.06.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.34244 of 2023
and W.M.P.Nos.34132 and 34133 of 2023

S.Vimalraj

.. Petitioner

Versus

1. The Member Secretary,
Tamil Nadu Uniformed Service Recruitment Board,
Old Commissioner of Police office campus,
Pantheon Road, Egmore,
Chennai - 600 008.
 2. The Chairperson/Member,
Sub-Committee,
Tamil Nadu Uniformed Service Recruitment Board,
Old Commissioner of Police office campus,
Pantheon Road, Egmore,
Chennai - 600 008.
 3. The Director of Government Examination,
Directorate of Government Examination,
Perasiriyar Anbalagan Kalvi Valagam,
Chennai - 600 006.
- .. Respondents

(R3 - suo motu impleaded as per order dated 12.04.2024
in W.P.No.34244 of 2023)

Prayer : Writ Petition filed under Article 226 of the Constitution of India,

pleased to issue a Writ of Certiorarified Mandamus to call for the records



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pertaining to the Annexure - IX Certificate Verification Form/Disqualification dated 07.11.2023 passed by the 2nd respondent and quash the same and further direct the respondents to give appointment to the petitioner for the post of Sub-Inspector of Police.

For Petitioner : Mr.J.Rajmohan

For Respondents : Mr.P.Kumaresan,
Additional Advocate General - VII
Asst. by Mr.J.Daniel,
Government Advocate,
for RR-1 and 2

: Mrs.S.Mythreye Chandru,
Special Government Pleader
for R3

ORDER

This Writ Petition is filed seeking to quash the Annexure - IX Certificate Verification Form / Disqualification, dated 07.11.2023 passed by the second respondent and to direct the respondents to give appointment to the petitioner for the post of Sub-Inspector of Police.

2. The case of the petitioner is that he is a graduate with a Bachelor of Science and he belongs to the Most Backward community. On 05.05.2023, the first respondent issued an advertisement calling for applications for



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direct recruitment to the post of Sub-Inspector of Police. Since the petitioner is fully qualified, he applied for the said post on 15.06.2023. He took part in the written examination on 26.08.2023 and the list of successful candidates in the written examination was released on 26.09.2023, in which, his name was found in Serial No.75. Thereafter, he was called to appear for certificate verification on 07.11.2023. In order to get ready to appear for certificate verification, when the petitioner took out all his certificates for photocopy, he found that the original of his X standard mark-sheet was missing. Immediately, on the same day, he lodged a complaint before the Sub-Inspector of Police, Vikkiramangalam Police Station and C.S.R.No.937 of 2023 was also issued by the Police. However, when the petitioner appeared for certificate verification along with the C.S.R receipt on 07.11.2023, he was not considered for inclusion in further process of selection which includes the physical measurement test and thereafter for the viva. Hence, the petitioner is before this Court.

3. When the matter came up for hearing, by the order, dated 12.04.2024, this Court *suo motu* impleaded the Director of Government Examination, Chennai as the third respondent in the present Writ Petition



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and the third respondent was directed to verify the genuineness of the X standard as well as the Higher Secondary mark-sheets of the petitioner. Accordingly, two communications of the third respondent have been produced, whereunder, it is now seen that the photocopy, which the petitioner produced, is genuine and correct. The petitioner has scored 476/500 marks in X standard by appearing in Register No.1551237 in the examination conducted in March, 2016. Similarly, the petitioner obtained 864/1200 in the Higher Secondary examination by appearing in Registration No.1483773 which was conducted in March, 2018 and there is no doubt whatsoever regarding the petitioner's possession of the qualifications. Only because the petitioner could not produce the original copy of the X standard mark-sheet at the relevant moment, his candidature was not considered.

4. When the petitioner possesses all the essential qualifications and when he has been prevented on account of circumstances not in his control i.e., noticing the loss of certificate only at the last moment and being unable to obtain a duplicate within two days and produce before the respondents, even though the first respondent may be justified in not considering the case of the candidate considering the large number of candidates and they have



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to go by the set of rules as per the notification, the Hon'ble Supreme Court of India in ***Dolly Chhanda Vs. Chairman, JEE and Ors.***¹ has held that in matters like this of procedural nature, the Court can come to the aid of the candidates. This Court also considered the very same issue in its order in W.P.No.107 of 2022, dated 18.06.2024 and it is relevant to extract paragraph No.12 in W.P.No.107 of 2022 which reads as hereunder:-

" 12. The petitioner is bound to succeed for two reasons. Firstly, as of the date of notification i.e., as of 14.11.2017, the petitioner possesses a Post-Graduate degree which is obtained after an Undergraduate degree and which is also of two years duration (M.B.A). The only flaw which is committed by the petitioner is that without uploading the said degree since he has yet another Post-Graduate degree (M.L.I.S), he uploaded the same. Therefore, it is not that the petitioner was not possessing the Post-Graduate qualification, but, the petitioner could not upload both the Post-Graduate qualifications. In that view of the matter, as rightly contended by the learned Senior Counsel, as per the dictum of the Hon'ble Supreme Court of India in ***Dolly Chhanda's*** case (cited *supra*), there can be relaxation in the matter of submission of proof."

5. In view thereof, when the petitioner participated in the written examination and came within the zone of consideration, for the above defect alone, his opportunity, which is once in a lifetime, cannot be negated and therefore, this is a fit case where the Court can come to the aid of the petitioner.

¹ (2005) 9 SCC 779



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6. *Mr.P.Kumaresan*, learned Additional Advocate General for the first respondent submits that as far as the batch-mates of the petitioner are concerned, the physical test and the viva were already completed and the select list was also finalised. Only in respect of pregnant candidates and other persons who, for genuine reasons, could not participate in the physical verification test and viva, a special session will be conducted by the board once in every six months. Therefore, in the next special session, the petitioner can also be included. Upon being found fit in the physical test and the viva, if the petitioner comes within the zone of consideration either in the General Category or in the Reserved Category, even if the selection is already completed, he can be accommodated in subsequent vacancy or in one supernumerary post. However, the petitioner will claim all the benefits including the service benefits, seniority etc., only from the date of prospective appointment and undergoing the training and thereafter joining the service as per the rules of the respondent department.

7. In view thereof, this Writ Petition is allowed on the following terms:-



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(i) The impugned memo, dated 07.11.2023 disqualifying the petitioner from the selection is set aside;

(ii) The respondents are directed to treat the petitioner as a qualified candidate vis-à-vis his certificate and shall permit the petitioner to participate in any forthcoming supplementary physical verification test and thereafter, shall also permit the petitioner to participate in any special viva which is to be conducted and assess the petitioner;

(iii) Upon completion of the selection process, if the petitioner comes within the zone of consideration either as a General Category candidate or as an MBC candidate, as the case may be, the petitioner shall be appointed thereafter in any subsequent vacancy and thereafter, may be deputed to training etc., in the subsequent batches;

(iv) It is made clear that the petitioner cannot claim any benefit from the respective batch and his appointment and all service benefits can be claimed only from the date of appointment alone;

(v) The petitioner shall follow up the complaint in C.S.R.No.937 of 2023 and if the certificate is traced out by the concerned Police, he shall submit the same to the respondents;



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(vi) If the certificate cannot not be traced out, the petitioner shall obtain the Non-traceable Certificate and thereafter, approach the third respondent, obtain a duplicate certificate and submit it before the respondents. However, the consideration and appointment of the petitioner need not await the said process.

(vii) There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

19.06.2024

Neutral Citation : yes
grs

To

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Pantheon Road, Egmore,
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2. The Chairperson/Member,
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D.BHARATHA CHAKRAVARTHY, J.

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