



W.P.(MD)Nos.2971, 2975, 2985, 3027, 3180, 3277, 3323, 3479, 3493, 3569, 3585, 4086 and 4133 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 18.03.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

**W.P.(MD)Nos.2971, 2975, 2985, 3027, 3180, 3277, 3323,
3479, 3493, 3569, 3585, 4086 and 4133 of 2024**

and

**W.M.P.(MD)Nos.2960, 2968, 3009, 3139, 3234, 3306, 3447,
3448, 3458, 3460, 3509, 3540, 3542, 3541, 3990 of 2024**

W.P.(MD)No.2971 of 2024:-

M.Priya

... Petitioner

Vs.

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

2.The Chairperson,
Tamil Nadu Uniformed Services Recruitment Board,
Sub-Committee,
Madurai Centre,
Madurai.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the record pertaining to the impugned order dated 06.02.2024



W.P.(MD)Nos.2971, 2975, 2985, 3027, 3180, 3277, 3323, 3479, 3493, 3569, 3585, 4086 and 4133 of 2024

passed by the second respondent and quash the same as illegal and consequently direct the respondents to conduct a fresh physical measurement test to the petitioner (Enrolment No.8000128) for the post of Joint Recruitment of Grade II Constable, Grade II Jail Warder and Fireman of Police in the Tamil Nadu Uniformed Services Recruitment Board 2023.

For Petitioner	: Mr.R.Venkatesan
For Respondents	: Mr.P.Veera Kathiravan, Additional Advocate General Assisted by Mr.S.Shaji Bino Special Government Pleader

COMMON ORDER

Challenging the impugned order dated 06.02.2024, the petitioners herein have come forward with these Writ Petitions.

2.The respondents called for the application for the Joint Recruitment of Grade II Constable, Grade II Jail Warder and Fireman of Police in the Tamil Nadu Uniformed Services Recruitment Board 2023 in the Tamil Nadu Uniformed Services Board. The petitioners herein made an application to the respondents and thereafter, they were invited for participating in the selection process. All the petitioners herein successfully passed in the written examination securing qualifying marks. Thereafter, the first respondent had sent them a communication calling for



W.P.(MD)Nos.2971, 2975, 2985, 3027, 3180, 3277, 3323, 3479, 3493, 3569, 3585, 4086 and 4133 of 2024

participating in the physical measurement test. The venue of the physical measurements test is Madurai Armed Reserved Ground and the date of physical measurement was scheduled on 06.02.2024 at 06.30 a.m. All the petitioners were duly present in the Armed Reserved Ground on 06.02.2024 and the respondents measured their heights. The required height measurement for men being 170 cm and the required height measurement for women being 159 cm, after measurement on the basis of the height, the officials declared the petitioners as qualified/unqualified depending upon their respective heights. The details of the physical measurement test conducted by the respondents on the writ petitioners for the sake of convenience is tabulated as follows:-

Sl. No.	Writ Petition/Petitioner	Physical Measurement Test by Team	Physical Measurement Test at the time of appeal
1.	W.P.(MD)No.2971 of 2024, M.Priya	Actual Height: 158.6cm Required Height: 159cm	158.6cm
2.	W.P.(MD)No.2975 of 2024, R.Kalpana	Actual Height: 158.3cm Required Height: 159cm	158.2cm
3.	W.P.(MD)No.2985 of 2024, A.Sudharsan	Actual Height: 169.6cm Required Height: 170cm	169.6cm



W.P.(MD)Nos.2971, 2975, 2985, 3027, 3180, 3277, 3323, 3479, 3493, 3569, 3585, 4086 and 4133 of 2024

4.	W.P.(MD)No.3027 of 2024, P.Karthigaiselvan	Actual 169.5cm Required 170cm	Height: Height:	169.2cm
5.	W.P.(MD)No.3277 of 2024, P.Manikandan	Actual 169.2cm Required 170cm	Height: Height:	169.3cm
6.	W.P.(MD)No.3479 of 2024, Ananth	Actual 169.2cm Required 170cm	Height: Height:	168.8cm
7.	W.P.(MD)No.3180 of 2024, M.Kanagalakshmi	Actual 157.6cm Required 159cm	Height: Height:	157.5cm
8.	W.P.(MD)No.3323 of 2024, A.Ariharan	Actual 169.3cm Required 170cm	Height: Height:	169.1cm
9.	W.P.(MD)No.3493 of 2024, P.Chandramohan	Actual 169.4cm Required 170cm	Height: Height:	169.5cm
10.	W.P.(MD)No.3569 of 2024, G.Karuthapandiyar	Actual 169.8cm Required 170cm	Height: Height:	169.6cm
11.	W.P.(MD)No.3585 of 2024, V.Balachandar	Actual 169.6cm Required 170cm	Height: Height:	169.7cm
12.	W.P.(MD)No.4086 of 2024, Ajithkumar	Actual 166.2cm Required 170cm	Height: Height:	166.5cm
13.	W.P.(MD)No.4133 of 2024, H.Sirajudeen	Actual 169.3cm Required 170cm	Height: Height:	169.2cm



W.P.(MD)Nos.2971, 2975, 2985, 3027, 3180, 3277, 3323, 3479, 3493, 3569, 3585, 4086 and 4133 of 2024

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3. For those male candidates, whose height was less than the required height of 170 cm and those female candidates whose height was less than the required height of 159 cm, the respondents held them as disqualified and those who got qualified in the height test by proof of required height was declared as qualified. All the petitioners are disqualified for want of the required height of 170 cm/159 cm respectively. In view of their appeal to the subcommittee Chairperson that they were not physically measured properly, once again they were subjected to physical measurement in the appeal process and thereafter, the results were declared. Even after the completion of physical measurement test at the time of appeal, none of these petitioners were held qualified for want of the required height. Following which, they were issued with disqualification slip in the physical measurement test vide impugned proceedings dated 06.02.2024. Claiming that their respective heights were more than what was actually measured by the respondents in physical measurement test, each of them have filed these Writ Petitions challenging the impugned order of disqualification slip issued to them individually.



W.P.(MD)Nos.2971, 2975, 2985, 3027, 3180, 3277, 3323, 3479, 3493, 3569, 3585, 4086 and 4133 of 2024

4.The learned counsel for the petitioners submitted that the petitioners were not measured properly by the respondent authorities. They were not measured by the Officials correctly and in view of the same, remeasurement of their height is necessary to substantiate the real height of the applicants. The learned counsel for the petitioners further submitted that despite the petitioners possessing necessary qualification and fitness for the post of Grade II Constable, Grade II Jail Warder and Fireman of Police, they were rejected for want of required height without properly measuring them and the same is illegal and violative of Article 14 and 16 of the Constitution. In view of the same, sought for interfering with the impugned order and thereafter, direct the respondents to conduct a fresh physical measurement test to each of them for the post of Joint Recruitment of Grade II Constable, Grade II Jail Warder and Fireman of Police in Tamil Nadu Uniform Services Recruitment Board, 2023. On that basis, they pressed for allowing the Writ Petitions.

5.Per contra, the learned Additional Advocate General Mr.P.Veera Kathiravan assisted by Mr.S.Shaji Bino, learned Special Government Pleader appearing for the respondents submitted that the petitioners were duly subjected to physical measurement



W.P.(MD)Nos.2971, 2975, 2985, 3027, 3180, 3277, 3323, 3479, 3493, 3569, 3585, 4086 and 4133 of 2024

test and on dissatisfaction of the procedure adopted for measuring at the first instance, on their request, each of them were again subjected to physical measurement test for the second time in appeal and even during appeal after measurement, they failed to establish that they possess the required height. Only in the absence of the required height, their candidature came to be rejected and the same need not be interfered. He further vehemently contended that due to the experiences of the recruitment board in the past, when the board was encountered by the candidates with innumerable, claims of improper physical endurance test during previous selections, during this recruitment, the board has completely resorted to digitalized methodology of measurement for conducting physical endurance test and the same cannot be found fault with by all means. He further relied upon the judgment of the Honorable Division Bench of this Court, passed in W.A.(MD)No.299 of 2023, dated 17.03.2023, where the Hon'ble Division Bench refrained from interfering with the results declared by the respondent Board in physical endurance test, once it was submitted that the measurement of height was done digitally and on that basis, pressed for dismissal of the Writ Petitions.

6.Heard the learned counsel appearing for the petitioners,

7/20



W.P.(MD)Nos.2971, 2975, 2985, 3027, 3180, 3277, 3323, 3479, 3493, 3569, 3585, 4086 and 4133 of 2024

the learned Additional Advocate General assisted by learned Special Government Pleader appearing for the respondents and anxiously and carefully perused the materials available on records.

7.The case of the petitioners is that they were not properly measured at the time of physical endurance test for determining their height. Each and every one of them claiming to have the required height of 170 cm/159 cm have filed these Writ Petitions seeking to subject them to re-measurement which would give them proper opportunity of proving the real height that they actually possess the required height. This Hon'ble Court in the case of W.P. (MD)No.14177 of 2020, dated 20.01.2021 has dealt with a similar case of height measurement and the relevant portion of the same is extracted as follows:-

“10. The petitioner has sworn in his affidavit that he is 170 cms tall. In view of the aforesaid discrepancies consistently found in the aforesaid three measurements, there arises a doubt in the method adopted by the Board while measuring the petitioner-s height. These discrepancies establish a patent factual error, which could cause prejudice to the petitioner. In my view, the benefit of this doubt can allure to the petitioner and in view of his claim that he is actually 170 cms tall, it would be



W.P.(MD)Nos.2971, 2975, 2985, 3027, 3180, 3277, 3323, 3479, 3493, 3569, 3585, 4086 and 4133 of 2024

appropriate to have his height re~measured.”

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8.This Court has dealt with a similar issue in W.P.No.18777 of 2021 batch dated 07.09.2021 and the relevant portion of the same is extracted as follows:-

“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;

ii. The exercise of height measurement may be resorted to through scientifically approved electronic or such other devices, such as Digital Measurement Device (Sensor Machine) and the same deserves to be undertaken at all stages of height measurement to establish a standardised procedure of measurement, in order to avoid any variation either in appeal or to avoid any future litigation;

iii. The Rules prescribing rounding off as amended and contained in Rule 14 of the Special Rules for Tamil Nadu Police Subordinate Service being not under challenge, the same can be implemented, but, in order to ensure any



W.P.(MD)Nos.2971, 2975, 2985, 3027, 3180, 3277, 3323, 3479, 3493, 3569, 3585, 4086 and 4133 of 2024

dispute of calculation, miscalculation or any suspected marginal error; it would be appropriate that instead of rounding off principle, a relaxation to the extent of 0.5 centimeter in the respective categories be introduced as a matter of rule that may possibly avoid any future litigation or dispute relating to discrepancy of measurement.

6. Accordingly, these writ petitions are disposed and direct the first respondent ? Chairman, Tamil Nadu Uniformed Services Recruitment Board, Chennai~600 008, to permit the physical examination of all the petitioners, on the next date of physical examination which is tentatively fixed to 22.09.2021 in Trichy. In the event, the petitioners qualify in the physical examination they shall be treated as eligible for further consideration. No costs. Consequently, connected miscellaneous petitions are closed.”

9.In yet another case of W.P.(MD)No.27024 of 2023 batch dated 28.11.2023, this Court has dealt with a similar case and has permitted retest for physical endurance and the relevant portion is extracted as follows:-

“3.In order to maintain uniformity, this Court passes the following order:-

In all the cases, where writ petitions have been filed challenging the disqualification with regard to lack of height or non achievement of 5 centimetre in chest



W.P.(MD)Nos.2971, 2975, 2985, 3027, 3180, 3277, 3323, 3479, 3493, 3569, 3585, 4086 and 4133 of 2024

expansion, the petitioners shall be permitted to participate in the re-test which is scheduled to be held on 29.11.2023. This order is restricted to the writ petitioners, who have already approached this Court.”

10.The Hon'ble Full Court of this Court had an occasion to deal with a similar issue in W.A.No.8 to 12 of 2020 batch and by its judgment dated 29.01.2020, this Court has held as follows:-

“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;

ii.The exercise of height measurement may be resorted to through scientifically approved electronic or such other devices, such as Digital Measurement Device (Sensor Machine) and the same deserves to be undertaken at all stages of height measurement to establish a standardised procedure of measurement, in order to avoid any variation either in appeal or to avoid any future litigation;



W.P.(MD)Nos.2971, 2975, 2985, 3027, 3180, 3277, 3323, 3479, 3493, 3569, 3585, 4086 and 4133 of 2024

III.The Rules prescribing rounding off as amended and contained in Rule 14 of the Special Rules for Tamil Nadu Police Subordinate Service being not under challenge, the same can be implemented, but in order to ensure any dispute of calculation, miscalculation or any suspected marginal error, it would be appropriate that instead of rounding off principle, a relaxation to the extent of 0.5 centimetre in the respective categories be introduced as a matter of rule that may possibly avoid any future litigation or dispute relating to discrepancy of measurement.”

11.The learned Additional Advocate General has emphatically submitted that the complete measurements were done digitally and hence, the question of doubting the veracity of the same will not arise. Having adopted such a digitalized measuring process, exclusively with the intention of minimizing the possibility of errors and on that basis, categorically submitted that the impugned rejection slips need not be interfered. The Honorable Gujarat High Court has dealt with a similar case in Special Civil Application No. 16596 of 2015 with Special Civil Application No.16351 of 2015 decided on 14.10.2015 in the case of **Kundanben Dhirubhai Jadhav v. State of Gujarat and another** and the relevant portion of the aforesaid judgment is extracted as follows:-



W.P.(MD)Nos.2971, 2975, 2985, 3027, 3180, 3277, 3323, 3479, 3493, 3569, 3585, 4086 and 4133 of 2024

“11.1 Mention is to be made of the study report sought to be relied upon by the learned advocate for the petitioner as under:-

“ Diurnal Variation of Stature in Three Adults and One child” Kewal Kirshnan and Krishan Vij** *Department of Anthropology, Punjab University, Chandigarh*

1. Now, it is possible to say that the stature of a person shows diurnal variation whether the person is a child, adult or old one in both the sexes. The amount and extent of variation depends upon the time of measuring the stature and varies from individual to individual. Diurnal stature loss can be a problem in short term longitudinal studies, in which apparent changes might simply reflect variations in the time of the day at which the measurement was taken (Malina and Beunen, 1996). The diurnal loss in stature may be attributed to the compression of fibrous discs of cartilage that separate the vertebrae. With the forces of gravity imposed by standing, walking and involving in physical activity, the discs are gradually compressed (Malina, 1995). The greater proportion of the change occurs in the vertebral column than in any other part of the body. Some agree that this is due not only to inter-vertebral shortening but also to bending of the vertebral column during the daytime (Hattori and Nishio, 1982) and still others say the diurnal variation in height is mainly due to loss of fluid from the inter-vertebral discs rather than postural changes (Fairbank, 1998).

CONCLUSION

It has been concluded that intraindividual variation in



W.P.(MD)Nos.2971, 2975, 2985, 3027, 3180, 3277, 3323, 3479, 3493, 3569, 3585, 4086 and 4133 of 2024

stature may substantially affect the reliability of height data and careful consideration should be given to the time at which the measurements are to be recorded. Therefore, in view of the accountable and significant variations in stature of an individual at different times of the day, the investigation alarms the scientists, researchers and clinicians engaged in conducting community based surveys involving stature as a measurement and for making reference data pertaining to growth, development and nutritional studies as well as for personal identification in forensic examinations."

11.2 Dr.K.S.Narayan Reddy in his book 'The Essentials of Forensic Medicine and Toxicology' (Seventeenth Edition-1998)" in Chapter IV of "Identification" under the head of "Stature" (pg. 65) notes as under:- " Stature varies at different times of the day by 1.5 to 2cm. It is less in the afternoon and evening due to the reduced elasticity of the intervertebral discs and the longitudinal vertebral muscles. Both malnutrition and advancing years reduce stature. After the age of thirty, the natural processes of senile degeneration cause gradual decrease in stature by about 0.6 mm. per year on an average. The stature is greater by one to three cm, on lying."

12. Undisputedly, the process of recruitment is videographed appreciably at each stage and therefore, neither any other challenge is made by the petitioner nor is there any requirement to go into any other aspect, except the measurement of height. It is commonly believed that



W.P.(MD)Nos.2971, 2975, 2985, 3027, 3180, 3277, 3323, 3479, 3493, 3569, 3585, 4086 and 4133 of 2024

height of a person after certain age would continue to remain the same once the growing age is over. However, the study speaks of its variation when measured in the various hours of the day as reflected above. A possibility also would emerge is of defect of measuring instrument if the same person is twice measured by the very person and second possibility could be of inaccurate manner of measurement either the first time or the second time, not to dilate the issue of effect of scientific phenomenon as referred to hereinabove.”

12. Fully fortified by the order passed by the Gujarat High Court and the Hon'ble Full Bench of this Court, this Court is of the considered view that the entire recruitment process has been videographed properly at each stage and hence, challenging the recruitment process would not serve any purpose except as to the measurement of height. However, in the instant cases, the measurements with regard to height has been done digitally to do away with irregularity in measurements. That apart the Rules prescribing rounding off as amended and contained in Rule 14 of the Special Rules for Tamil Nadu Police Subordinate Service being not under challenge, the same has to be implemented. But in order to ensure any dispute of calculation, miscalculation or any suspected marginal error, it would be appropriate that instead of



W.P.(MD)Nos.2971, 2975, 2985, 3027, 3180, 3277, 3323, 3479, 3493, 3569, 3585, 4086 and 4133 of 2024

rounding off principle, a relaxation to the extent of 0.5 cm in the respective categories be introduced as a matter of rule that may possibly avoid any future litigation or dispute relating to discrepancy of measurements. The Hon'ble Full Court also has mandated a relaxation to the extent of 0.5 cm in the respective categories while measurement of height as a matter of Rule for the purpose of avoiding litigation.

13.Of the 11 writ petitioners herein, the Writ Petitioners in W.P.(MD)No.2971 of 2024, W.P.(MD)No.2985 of 2024, W.P.(MD)No. 3479 of 2024, W.P.(MD)No.3493 of 2024, W.P.(MD)No.3569 of 2024 and W.P.(MD)No.3585 of 2024, if given with a relaxation to the extent of 0.5 cm in their height measurement certainly these writ petitioners would come within the zone of consideration and would obviously be qualified for selection. In view of the same, the respondents are hereby directed to relax the required height measurement to an extent of 0.5 cm for the purpose of height measurement in the physical measurement test as far as the writ petitioners mentioned supra and declare them to have come within the zone of consideration and duly qualify them for the purpose of recruitment. Accordingly, all the aforementioned Writ Petitions are disposed of.



W.P.(MD)Nos.2971, 2975, 2985, 3027, 3180, 3277, 3323, 3479, 3493, 3569, 3585, 4086 and 4133 of 2024

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14.As far as the other Writ Petitions, viz., W.P.(MD)Nos. 2975 of 2024, 3027 of 2024, 3277 of 2024, 3180 of 2024, 3323 of 2024, 4086 and 4133 of 2024 are concerned, even if they are given with a relaxation to the extent of 0.5 cm with respect to their height, they will not come within the zone of consideration by acquiring the required height of 170 cm on relaxation. In view of the same, W.P. (MD)Nos.2975 of 2024, 3027 of 2024, 3277 of 2024, 3180 of 2024, 3323 of 2024, 4086 of 2024 and 4133 of 2024 are hereby dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

18.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn

To

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

17/20



W.P.(MD)Nos.2971, 2975, 2985, 3027, 3180, 3277, 3323, 3479, 3493, 3569, 3585, 4086 and 4133 of 2024

- 2.The Chairperson,
Tamil Nadu Uniformed Services Recruitment Board,
Sub-Committee,
Madurai Centre,
Madurai.
- 3.The Chairperson,
Sub-Committee,
Dindigul Centre,
Tamil Nadu Uniformed Services Recruitment Board,
Dindigul.
- 4.The Chairperson of the Sub Committee,
Tamil Nadu Uniformed Services Recruitment Board,
Thoothukudi,
Thoothukudi District.
- 5.The Chairperson,
Sub-Committee,
Tamil Nadu Uniformed Services Recruitment Board,
Pantheon Road,
Egmore, Chennai 600 008.
- 6.The Chairperson of Sub Committee/
DIG of Police,
Tamil Nadu Uniformed Service Recruitment Board,
Virudhunagar Range,
Virudhunagar.
- 7.Member Secretary,
The Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police office Campus,
Pantheon Road,
Egmore,
Chennai -600 008.
- 8.The Director General of Police,
Mylapore,
Chennai – 600 004.
- 9.The Inspector General of Police,
South Zone, Madurai.



W.P.(MD)Nos.2971, 2975, 2985, 3027, 3180, 3277, 3323, 3479, 3493, 3569, 3585, 4086 and 4133 of 2024

- 10.The Deputy Inspector General of Police,
Madurai Range,
Madurai District.
- 11.The Superintendent of Police,
Trichy,
Trichy District.
- 12.The Superintendent of Police/ Chairperson,
Madurai District.
- 13.The Superintendent of Police,
Thoothukudi District,
Thoothukudi.
- 14.The Superintendent of Police/
Sub Committee Chairman,
Virudhunagar District.
- 15.The Superintendent of Police,
O/o the Superintendent of Police,
Kanyakumari District.



W.P.(MD)Nos.2971, 2975, 2985, 3027, 3180, 3277, 3323, 3479, 3493, 3569, 3585, 4086 and 4133 of 2024

L.VICTORIA GOWRI, J.

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**W.P.(MD)Nos.2971, 2975, 2985, 3027, 3180, 3277, 3323,
3479, 3493, 3569, 3585, 4086 and 4133 of 2024**

18.03.2024