



W.P.(MD)No.6204 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.04.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.6204 of 2024 &
W.M.P.(MD)No.5809 of 2024

P.Manikandan

... Petitioner

vs.

- 1 The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore, Chennai - 600 008.
 - 2 The Chairperson / Member Recruitment Sub-Committee,
Tamil Nadu Uniformed Services Recruitment Board,
Palayamkottai Centre, Superintendent of Police,
Tirunelveli District
- ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned disqualification slip dated 06.02.2024 passed by the 2nd respondent against the petitioner and to quash the same and further direct the respondents to re-measure the height of the petitioner (Enrolment Number 4604801) and permit the petitioner to participate in the physical endurance test and other recruitment process to the post of Grade II Police Constable, Grade II Jail Warden, Fireman - 2023.



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For Petitioner : Mr.B.Karthee
For Respondents : Mr.Veerakathiravan,
Additional Advocate General
Assisted by
Mr.S.Shanmugavel
Additional Government Pleader

ORDER

The petitioner has filed this writ petition seeking to quash the impugned disqualification slip dated 06.02.2024 issued by the 2nd respondent and direct the respondents to re-measure his height and permit him to participate in the physical endurance test and other recruitment process for the posts of Grade II Police Constable, Grade II Jail Warden and Fireman.

2. The petitioner who had applied to the posts of Grade II Police Constable, Grade II Jail Warden and Fireman was permitted to undergo physical test after he cleared the written examination. The petitioner who belongs to MBC category is expected to have atleast minimum height of 170 cm to qualify for the recruitment of the said posts. But, the petitioner had measured only 168.8 cm. The petitioner refused to accept the said



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measurement and appealed the same. In the appeal, the petitioner's height was found to be 167.9 cm. Now the petitioner claims that both the measurements were not appropriate and that he has subjected himself to another measurement at Kauvery Multi Speciality Hospital, Tirunelveli, wherein his height was found to be 170 cm.

3. Mr.B.Karthee, learned counsel for the petitioner relied on the order passed by the Principal Bench of this Court dated 23.02.2024 in W.P.(MD)No.4410 of 2024, wherein it is held as follows.

"5. Though the petitioner challenges the order of disqualification, this Court is inclined to direct the petitioner to appear before the Regional Medical Board, Government Rajiv Gandhi Medical College and Hospital, Chennai, within a period of two weeks from the date of receipt of a copy of this order. The Dean, Regional Medical Board, Government Rajiv Gandhi Medical College and Hospital, Chennai, is directed to measure the height of the petitioner and give report. "



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4. However, Mr.Veerakathiravan, learned Additional Advocate General assisted by Mr.S.Shanmugavel, learned Additional Government Pleader submitted that the best process of physical measurement to avoid any uncertainty is settled by Full Bench Judgement of the Principal Bench of this Court dated 29.01.2020 in W.A.Nos.8 to 12, 14 to 16, 23 and 24 of 2020. In the said Judgment, after a lengthy discussion and after dealing with practical difficulties that would arise, it has been concluded as below.

"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 dispute of calculation, mis-calculation 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*



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possibly avoid any future litigation or dispute relating to discrepancy of measurement."

5. The learned Additional Advocate General further submitted that unless any *malafide* intention is shown by the respondent Authorities, the standard procedure followed by the Department has to be accepted and there cannot be any further physical measurement through any other mode. It is also submitted that by considering the appeal made by the petitioner, the second measurement was taken digitally and hence there need not be any confusion as to the measurement of his height.

6. In fact, when the petitioner's height was measured digitally, it was found to be atleast 1 cm below the required physical measurement. When a standard procedure is followed and the physical measurements of the candidates are taken in accordance with the standard procedure, there should be a finality for such an exercise. Since the above position has been already settled by a Full Bench Judgment of this Court dated 29.01.2020 in W.A.Nos.8 to 12, 14 to 16, 23 and 24 of 2020, this matter



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do not require any further consideration.

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7. In view of the above observations, the writ petition is **dismissed**. No costs. Consequently, the connected Miscellaneous Petition is closed.

03.04.2024

NCC: Yes/No

Index : Yes/No

Speaking/Non-Speaking order

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To

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R.N.MANJULA, J.

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