



WP(MD). No.13784 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 28/06/2024

CORAM

The Hon`ble Ms.Justice R.N.MANJULA

WP(MD). No.13784 of 2024

KB. Rohith.

... Petitioner

Vs

1. State of Tamilnadu,
Rep. by its Secretary,
Home (Police - Iii) Department,
St. George Fort, Chennai..

2. The Chairman,
Tamilnadu Uniformed Service Recruitment Board,
Old Commission of Police Campus,
Pantheon Road, Egmore, Chennai - 600008..

3. The Director General of Police,
Office of the Director General of Police,
Chennai – 600004..

... Respondents

PRAYER :- Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Mandamus, directing the respondents to consider the candidature of the petitioner to the post of Sub Inspector of Police in pursuant to the Notification in Notification No. 1/2023 dated 05.05.2023 by considering the representation given by the petitioner dated 20.06.2024 within a time stipulated by this Court.

For Petitioner : Mr.G.Prabhu Rajadurai,

For Respondents : Mr.Veera Karhiravan

Additional Advocate General assisted by



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Mr.T.Amjad Khan
Government Advocate

ORDER

The writ petition has been filed to direct the respondents to consider the candidature of the petitioner to the post of Sub Inspector of Police in pursuant to the Notification in Notification No. 1/2023 dated 05.05.2023 by considering the representation given by the petitioner dated 20.06.2024 within a time stipulated by this Court.

2. By consent, the writ petition itself is taken up for final disposal.

3. Heard the learned counsel for the petitioner and the learned Additional Advocate General for the respondents.

4. The petitioner, who had applied to the post of Sub Inspector of Police in response to the Notification dated 05.05.2023 of the 2nd respondent. He got selected for the said post. In the selection list, the petitioner stands in S.No.34 under three categories. However, the petitioner has not been given with the appointment order in view of the



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partial defective colour vision. The petitioner has given a representation to the respondents stating that partial colour vision cannot be hereditary and it will not affect his routine function as Sub Inspector of Police. However, the said representation is pending with the respondents.

5. The learned counsel for petitioner has drawn my attention to the earlier order of this court in WA(MD) No.941 to 953 2020 etc., where batch of candidates, who have been selected for the uniformed services, have filed writ petitions seeking appointment by considering their submissions. Those candidates, who have filed the writ petitions, seem to have got some visual impairment for which they have been wearing power glasses. Thus vision test is being conducted in accordance with G.O.Ms.No.124 dated 10.11.2020. Since the petitioners therein involved in the above case, they filed writ petitions seeking writ of mandamus in WP(MD) Nos.5441 of 2019 etc., batch. Those writ petitions were allowed and the State have filed writ appeals and this court dismissed those writ appeals, wherein, the following observations have been made:

“7.We do not find any merit in these Writ Appeals, as rightly submitted by the learned Senior Counsel appearing for the respondents that it is not a case, the respondents cannot function by wearing glasses.



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The Notification does not specify the extent of visual standards, even otherwise, it is clear, as the respondents can perform by wearing glasses, their candidature cannot be rejected by making them to undergo a test without wearing glasses. The question is the suitability to the job and not otherwise. The classification sought to be made is certainly violative of Article 14 of the Constitution of India. If it is approved, a candidate, who is wearing specs would become disentitled for being considered to the post. It is an indirect way of fixing qualification on the sole premise that a candidate wearing glasses cannot be considered. One has to see the eligibility and suitability of the candidate to the post, but such eligibility cannot be fixed on the basis of a candidate without specs, vis-a-vis, a candidate with specs. Thus, looking from any perspective, we do not find any reason to interfere with the order passed by the learned Single Judge, as we are in respectful agreement with the submission made by the learned Senior Counsel appearing for the respondents that the Government Order relied upon is outdated, opaque and contrary to the wisdoms expressed by the Hon'ble Apex Court. It is the insufficient/inadequate eyesight that makes a person to wear a glass. Once such glass is worn, then, that deficiency goes. Therefore, such person becomes eligible on par with the other person, who performs without glasses.”

6. By citing the judgments, the learned counsel for the petitioner submitted that the petitioner does not even suffer from visual defectiveness but only partial colour vision and that cannot be a bar for his appointment.



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7. The learned Additional Advocate General submitted that an order passed in the writ appeal has been challenged before the Supreme Court in SLP No.13876 to 13888 of 2021 and there is an order of stay.

8. The issue involved in the above case is in respect of normal visual standards of candidates without spectacles. So far as this petitioner is concerned, there is no remark that the petitioner cannot have any visual impairment. The only remark that was made in the medical report is that the petitioner has got partial defectiveness in colour vision. Obviously the petitioner is not appointed for any occupation like driving and hence, his partial colour vision cannot interfere in his routine functions.

9. In view of the above, this writ petition is disposed of with a direction to the respondents to consider the petitioner's representation dated 20.06.2024 and pass appropriate orders on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order. No costs.

28.06.2024

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R.N.MANJULA,J

RR

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