



W.A(MD)No.1398 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 21.11.2024

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MS.JUSTICE R.POORNIMA**

**W.A(MD)No.1398 of 2017
and
W.M.P(MD)Nos.10193 of 2017
& 11346 of 2024**

- 1.The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.
- 2.The Director General of Police,
Chennai – 4.
- 3.The Tamil Nadu Uniformed Services
Recruitment Board,
Represented by its Chairman,
807, Second Floor,
Anna Salai,
Chennai – 2.
- 4.The Government of Tamil Nadu,
Represented by its Secretary,
Home Department,
Chennai.

... Appellants /
Respondents

Vs.



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Thavasilingam

... Respondent /
Writ Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 21.02.2017 passed in W.P(MD)No.15939 of 2013.

For Petitioners : Mr.Veera.Kathiravan
Additional Advocate General
Assisted by
Mr.Siddharthan
Additional Government Pleader

For Respondent : Mr.T.Lajapathi Roy
Senior Counsel
for M/s.Lajapathi Roy Associates

ORDER

Heard the learned Additional Advocate General appearing for the Government and the learned Senior Counsel appearing for the writ petitioner / respondent.

2.The writ petitioner herein belongs to MBC community. When Tamil Nadu Uniformed Services Recruitment Board issued notification in the year 2010 calling for applications from eligible persons for recruitment to the post of Sub Inspector of Police, the writ petitioner applied in response thereto. He wrote the written examination on 04.07.2010 and cleared the same. He also



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took part in the physical efficiency test. When he was medically checked it was noticed that he suffered from colour blindness. Hence, he was disqualified for being appointed as Sub Inspector of Police. Proceedings dated 06.08.2013 was issued by the Director General of Police, Chennai to this effect. Questioning the stand of the Department and seeking appointment of Sub Inspector of Police, the petitioner filed W.P(MD)No.15939 of 2013. The writ petition was disposed of on 21.02.2017 in the following terms:

“14.In the result, the following orders are passed in the Writ Petition:

(i) The impugned order is quashed and the matter is remitted to the respondents for reconsideration.

(ii) During the process of reconsideration, the respondents shall refer the petitioner for medical reexamination once again to the Medical Board of Regional Institute of Ophthalmology and Government Ophthalmic Hospital, Chennai – 8. The Medical Board shall examine the actual percentage of colour vision and the defects in this regard of the petitioner and the same can be recorded by reasoning, as to whether with the said percentage of defects in colour vision, the petitioner shall be able to perform the duty of a Sub-Inspector of Police in the Uniformed Services of the State.

(iii) After getting the report from the Regional Institute of Ophthalmology and Government Ophthalmic Hospital, Chennai



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– 8, based on the said views expressed by the Medical Board, as has been indicated above, the final decision can be taken by the respondents.

(iv) For the completion of the said task as has been indicated above, the reference shall be made to the Medical Board within a period of four weeks from the date of receipt of a copy of this order. Thereafter, after due intimation about the date and time of the re-medical examination the same shall be done by the concerned medical Board within a period of two weeks thereafter and after receipts of medical reports, the respondents shall take a decision thereon about the eligibility of the petitioner's candidature and to pass final orders thereunder either to appoint the petitioner or otherwise for the said recruitment to the post of Sub-Inspector of Police, within a period of three weeks thereafter.

(v) Whenever the medical Board gives any intimation to the petitioner, fixing the date and time for the petitioner for re-examination, the petitioner shall appear before the Medical Board without fail and if the petitioner fails in this regard, the above direction shall not be applicable on the respondents.”

Aggrieved by the same, the Department filed this intra-Court appeal.

3. When the matter was taken up on 06.08.2024, the Hon'ble Division Bench passed the following order:



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“The Writ Appeal has been filed challenging an order of the learned Single Judge in W.P.15939 of 2013 dated 21.02.2017, by which order, the learned Single Judge had passed certain directions for medical re-examination of the writ petitioner by the Medical Board of Regional Institute of Ophthalmology and Government Ophthalmic Hospital at Chennai. Further directions had been issued that the Medical Board should examine the actual percentage of colour vision and the defects in this regard of the petitioner and further it may also be recorded with reasons whether the said percentage of defects in colour vision would be a bar or any hindrance to the petitioner to perform duty of the Sub Inspector of Police in the Uniformed Services of the State.

2. As would be evident from the nature of the direction issued by the learned Single Judge, the petitioner suffers from colour blindness, but had applied for the selection to the post of Sub Inspector of Police in the Uniformed Services of the State. He had qualified in the various steps but this issue of colour blindness had come in the way and had been a ground for the respondent/writ petitioner to deny him appointment necessitating filing of the writ petition.

3. After hearing Mr.Veerakathiravan, learned Additional Advocate General appearing for the appellants and also Mr.T.Lajapathi Roy, learned Senior Counsel appearing for the respondent/writ petitioner, we are of the



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view that the directions of the learned Single Judge is to be reiterated and the respondent/ writ petitioner should be subjected to such medical re-examination by the Medical Board of Regional Institute of Ophthalmology and Government Ophthalmic Hospital at Chennai.

4. We will keep all other issues open, but await such report to be forwarded by the said Medical Board. The respondent/writ petitioner may appear before the Medical Board in the first instance on 20.08.2024.

5. A direction is given that the Medical Board should be formed as directed and examine the respondent/writ petitioner and file a report within a period of four weeks thereafter.

6. List the matter once again on 23.09.2024.”

Pursuant to the aforesaid direction, the writ petitioner was subjected to a second medical checkup by the Medical Board of Regional Institute of Ophthalmology and Government Ophthalmic Hospital, Chennai. However, the Medical Board vide report dated 06.09.2024 opined that the writ petitioner is having defective red - green colour blindness and he is not fit for the post of Sub Inspector of Police as per the norms of the Uniformed Services of the State.

4.The learned Additional Advocate General drew our attention to Rule 14-B of Special Rules for Tamil Nadu Sub-ordinate Service Rules, 1978



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which states that persons with bodily defect or infirmity are not entitled to appointment. In the schedule to the Rules, it is specifically mentioned that colour blindness would operate as a disqualification.

5.The learned Senior Counsel for the writ petitioner relied on the decision of the Hon'ble Supreme Court reported in **(2023) INSC 914 (Mohamed Ibrahim Vs The Chairman and Managing Director & Others)**. In that case also the appellant suffered from colour blindness. The Hon'ble Supreme Court referred to earlier decisions and invoked the doctrine of reasonable accommodation proclaimed in the Rights of Persons with Disabilities Act, 2016 and directed TANGEDCO to appoint the appellant as Assistant Engineer (Electrical). The said decision is clearly distinguishable on facts. The Hon'ble Supreme Court noted that TANGEDCO, during the hearing, was unable to show why the employment of the appellant is not possible. Unlike the case on hand, there was no disqualification Rule cited by TANGEDCO.

6.We are clearly of the view that for discharging the duties of Sub Inspector of Police, one's vision should be free of any kind of infirmity. That is why we are not persuaded to follow the decision rendered in **W.P(MD)No.5441**



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of 2019 dated 30.04.2019 (M.Salai Gayathri Vs The State of Tamil Nadu &

Others). The learned Judge in the said case noted that it is a settled law that a physical defect or deformity, which in no way interferes with the normal or efficient functioning, should not be considered as an absolute bar to public employment in regard to the posts not associated with physical activity.

7.The functions of Sub Inspector of Police definitely involves physical activity. It also requires one's active field participation. Therefore, infirmity of colour blindness would definitely come in the way of effective discharge of one's duty. It is the view taken by the employer and we cannot characterise the same as unreasonable or perverse. In this view of the matter, the order impugned in the Writ Appeal is set aside.

8.This Writ Appeal is allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[G.R.S., J.] [R.P., J.]
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NCC : Yes / No
Internet : Yes / No
Index : Yes / No
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