



W.P.(MD).No.26061 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 19.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

**W.P.(MD).No.26061 of 2024
and WMP(MD).No.22097 of 2024**

R.Mohanraj

....Petitioner

Vs

1.The State of Tamil Nadu
Represented by its Principal Secretary
Home Department
Fort St.George
Chennai 600 009

2.The Director General of Police
Office of the Director General of Police
Dr.Radhakrishnan Salai, Mylapore
Chennai 600 004

3.The Tamil Nadu Uniformed Services
Recruitment Board Represented by its Chairperson
Old Commissioner of Police Office Campus
Pantheon Road, Egmore
Chennai 600 008

....Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents 1 to 3 to appoint the petitioner as Grade-II Police Constable/Jail Warden/Firemen or any other suitable post based on the present physical fitness of the petitioner by granting necessary relaxation to the petitioner in compliance of order of the Hon'ble Supreme Court of India in the batch cases in Civil Appeal Nos.



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10891, 10893, 12226, 10892 of 2018 and 5844, 5843 of 2019 and then 419 of 2023 dated 19.01.2023.

For Petitioner : Mr.Niranjan S.Kumar

For Respondents : Mr.Veera.Kathiravan
Additional Advocate General
Assisted by
Mr.A.Baskaran
Additional Government Pleader

ORDER

The instant writ petition has been filed by an aspirant to the post of Grade-II Police Constable pursuant to Notification No.2 of 2023 issued by the third respondent on 08.08.2023.

2.The petitioner herein has participated in the above said selection process and after clearing the written examination, he had participated in the Physical Endurance Test conducted on 06.02.2024. The petitioner has not secured the required marks in the physical efficiency test. The petitioner who belongs to B.C. category has secured 63 marks, whereas the cut off marks for the wards quota of police personnel in 73.50.

3.The present writ petition has been filed primarily on the ground that the petitioner has sustained injuries in his finger in November 2023 and he has undergone a surgery. In view of the said fracture and surgery, the petitioner was not able to perform to the fullest extent during the physical



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endurance test that was conducted on 06.02.2024. Therefore, he should be given a second opportunity to participate in the physical endurance test.

4.It is the further contention of the writ petitioner that he had participated in 2017 recruitment process under wards quota. However, the said wards quota was quashed by the Hon'ble Division Bench of this Court which was put to challenge before the Hon'ble Supreme Court. The Hon'ble Supreme Court while reversing the order of the Hon'ble Division Bench *in Civil Appeal No.10891 of 2018 (The State of Tamil Nadu and others Vs. K.Sathish)* dated 19.01.2023 had observed that the pendency of litigation will not make the claim of the candidates who have gone through the process when the judgement was delivered, age bar and necessary relaxation be provided by the State Government. Therefore, according to the learned counsel for the writ petitioner not only the age relaxation, but also the other relaxation should be granted by the State Government. With the said prayer, the present writ petition has been filed.

5.The learned counsel appearing for the writ petitioner had further contended that the petitioner having participated in 2017 selection process, was not selected due to cancellation of ward quota. In the next selection, the petitioner had participated without seeking any further age relaxation and he had also passed the written examination and physical endurance test. However, since he did not come within the zone of consideration, he was not



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selected. Therefore, he participated in the recruitment process pursuant to the notification issued in the year 2023. Even in the said recruitment process, though he had cleared the written examination, he could not clear the physical endurance test due to the fracture and surgery underwent by him. Therefore, considering the said facts, the petitioner should either be granted second opportunity to undergo physical endurance test or relaxation shall be granted by the State Government pursuant to the order of the Hon'ble Supreme Court.

6.Per contra, the learned Additional Advocate General appearing for the respondents had contended that as per the order of the Hon'ble Supreme Court, only age relaxation could be granted and relaxation with regard to the physical fitness cannot be granted. He had further contended that as far as the physical endurance test is concerned, once the petitioner has participated in the said test and he was not able to be successful, a second opportunity cannot be sought for by him.

7.The learned Additional Advocate General had relied upon the Hon'ble Division Bench judgment of our High Court in ***W.A(MD).No.1706 of 2021 (The Director General of Police, The Tamil Nadu Uniformed Services Recruitment Board, Chennai and another Vs. P.Jeyasundar)*** dated 26.10.2021 to impress upon the Court that there is no possibility of granting a second chance as far as the physical endurance test is concerned on the



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ground that a person was not able to perform in a better manner on a particular date. The learned Additional Advocate General had further stated that the petitioner belongs to B.C.category and he has secured only 63 marks whereas the cut-off marks for that particular category is 73.5. In such circumstances, the request of the petitioner cannot be considered.

8. I have considered the submissions made on either side and perused the material records.

9.As far as the request of the petitioner for providing second chance to undergo physical endurance test is concerned, the said issue is no longer *res integra*.

10.In ***W.A(MD).No.1706 of 2021 (The Director General of Police, The Tamil Nadu Uniformed Services Recruitment Board, Chennai and another Vs. P.Jeyasundar)***, the Hon'ble Division Bench, Paragraph Nos. 3, 4 and 5 has held as follows:

“3. Apart from the fact that the physical ability test was prior to the period when the petitioner was affected by the virus, the principle on which the order is founded cannot be accepted. Merely because a particular person feels to be under the weather or otherwise not upto the mark on a particular day when the test is scheduled, it does not imply that such person has to be afforded a further opportunity to take the test at his convenience. Recruitment processes will go completely awry if such a practice were to be encouraged.



4. *The petitioner participated in the process without any reservation and failed to make the mark. The fact that four days later the petitioner was discovered to have contracted the disease is no ground for any discretion to be exercised in favour of the petitioner and a special test required to be conducted at a time when the recruitment process has already been concluded.*

5. *The writ petitioner submits that there are other instances where similar considerations had been shown to persons, who may not have fared well in the physical ability test. **As a matter of principle, it cannot be accepted as a legal proposition that merely because a person was unable to perform upto his expectations on the date that the physical ability test was scheduled, such person has to be afforded a subsequent opportunity to demonstrate his physical ability or the extent of his fitness. Further, since Article 14 of the Constitution does not operate in a negative sense, if a few persons have been erroneously conferred a benefit that they may not have been entitled to, the same cannot be cited as an instance to perpetuate the wrong.***

11. In view of the judgement of the Hon'ble Division Bench, the request of the petitioner to provide a second opportunity to undergo physical endurance test is not legally sustainable. As far as the second prayer of the writ petitioner that he should be granted relaxation pursuant to the order of the Supreme Court is concerned, this Court has perused the order of the Hon'ble Supreme Court dated 19.01.2023 **in Civil Appeal No.10891 of 2018.**



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The operative portion of the order of the Hon'ble Supreme Court is extracted as follows:

“The pendency of the litigation will not make the claim of the candidates who have gone through the process when the judgement was delivered, age bar and necessary relaxation be provided by the State Government.”

12.A careful perusal of the order of the Hon'ble Supreme Court reveals that the Supreme Court had directed the State Government to provide only age relaxation and no other relaxation was directed by the Hon'ble Supreme Court. That apart, such a relaxation was applicable only those candidates who had participated in 2017 recruitment process and not for any other recruitment process.

13.In view of the above said deliberations, the prayer of the writ petitioner to grant relaxation pursuant to the order of the Supreme Court for selection of the year 2023 is also not legally sustainable. There are no merits in the writ petition. The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

19.12.2024

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
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R.VIJAYAKUMAR, J.

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