

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2017

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P. No. 22551 of 2017

and

W.M.P.No.23680 of 2017

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..Petitioner

Vs.

1.The State of Tamil Nadu,
Rep.by its Home Secretary,
Fort St. George,
Chennai

2.The Chairman,
Tamil Nadu Uniformed Services-
Recruitment Board,
Pantheon Road, Egmore,
Chennai-18.

3.The Member Secretary,
Tamil Nadu Uniformed Services-
Recruitment Board,
Pantheon Road, Egmore,
Chennai-18.

4.The Commissioner of Police,
Coimbatore City,
Coimbatore Corporation,
Coimbatore.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus call for the entire records connected with the proceedings of impugned order of disqualification passed against the petitioner made by the 2nd respondent in C.No.R2/150/2017 dated 03.08.2017 and quash the same consequently direct the respondents to select the petitioner as Grade II Constable in the recruitment being conducted by the 2nd and 3rd respondents by giving exemption/privilege in the time fixed for 100 meters running.

For Petitioner : Mr. K. Thilageswaran
For Respondents : Mr.K. Venkata Ramani,

ORDER

An order of disqualification issued by the 2nd respondent in proceedings dated 03.08.2017 is under challenge in this writ petition.

2. The learned counsel appearing for the writ petitioner states that pursuant to the notification issued by the respondent for recruitment to the post of Grade II Constable in Tamil Nadu Police Services, the writ petitioner submitted an application, under the category of Transgender. The writ petitioner appeared in the written examination and consequently

passed. Thereafter, the writ petitioner received a call letter to appear for the physical eligibility test / endurance test / efficiency test. Accordingly, the writ petitioner participated in the test and succeeded in the test of Height / endurance and other test including the long jump and short put. However, the writ petitioner is unable to succeed in 100m run, as she completed the 100 m run in 21.30 seconds and accordingly, the writ petitioner was issued with an order of disqualification in proceedings dated 03.08.2017 by the Chairman, Sub-committee.

3. The learned Additional Advocate General appearing on behalf of the respondents contended that the 100 m running ought to have been completed by the candidates within the time limit of 17.5 seconds, but the writ petitioner has completed the running by 21.30 seconds and accordingly, the writ petitioner was disqualified. Thus, there is no infirmity in the order of disqualification and further, the writ petitioner stands last in the running event.

4. This Court raises a question as to whether, any other transgender are considered for recruitment to the post of Grade II Constable?

The Learned Additional Advocate General stated that in all, about 25 candidates belonging to the category of transgender have participated in the recruitment process and there is a possibility of selecting few of them. Thus, it is not a case, as if the respondents have not at all considered the cases of transgender. That apart, the transgenders are permitted to participate in the 100 m run along with the women candidates. This itself is a concession shown by the State in favour of transgender. The concession in this regard has already been extended to the writ petitioner also. However, the minimum required eligibility fixed in the recruitment rules cannot be compromised, since, the recruitment is for the post of Grade II Police Constable / Grade II Jail Warden and Fireman (uniformed services of the State). This compromise in the eligibility criteria will dilute the very purpose of the services in this regard and therefore, the grounds raised in this writ petition cannot be considered in favour of the writ petitioner.

सत्यमेव जयते

6. The Learned counsel appearing for the petitioner would contend that even the Constitutional Courts have shown some leniency in favour of the transgender for securing public appointment.

7. However, the concession is already shown to the writ

petitioner to participate in the 100 m running event, along with the women candidates. Such being the case, no further concession is required to be shown, in respect of the minimum time limit prescribed for completion of the 100 m run.

8. However, the writ petitioner need not get discouraged from and out of the order passed in this writ petition and this Court wishes her to participate in all future recruitment process and put more effort to get success.

9. Such being the view of this Court, the grounds raised in this writ petition deserves no further consideration and stands dismissed. Consequently connected Miscellaneous petition is closed. No costs.

सत्यमेव जयते

23.08.2017

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S.M. SUBRAMANIAM,J.

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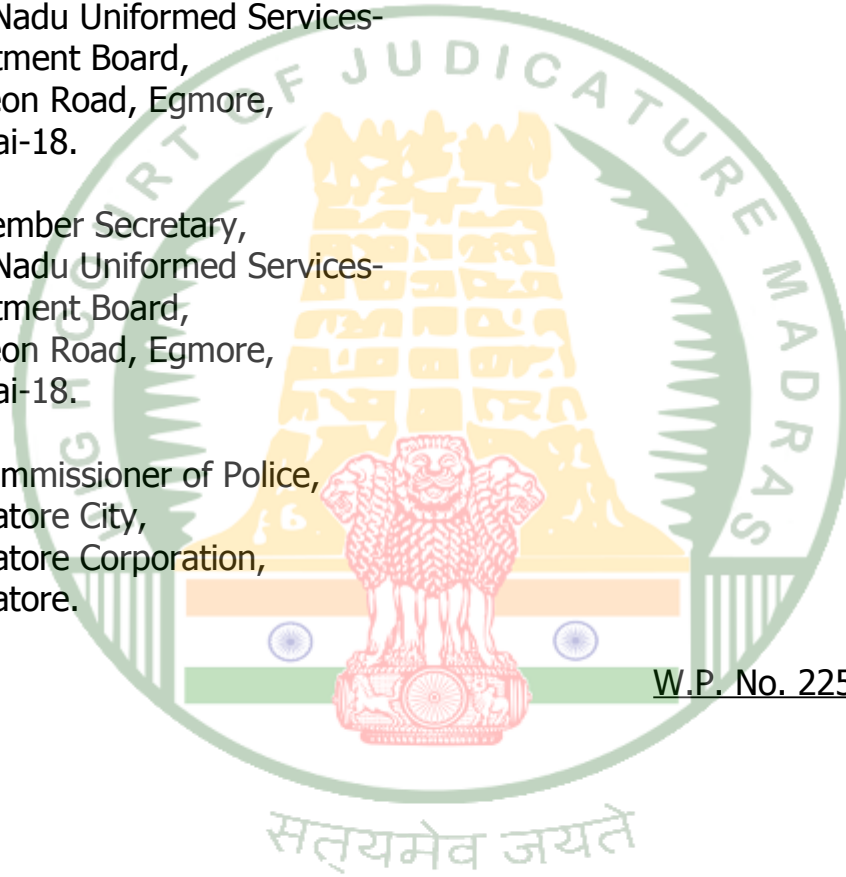
To

1.The Home Secretary,
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2.The Chairman,
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