

bbBEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2021

CORAM

**THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MRS.JUSTICE S.ANANTHI**

W.A.(MD)Nos.941 to 953 of 2020

and

**C.M.P.(MD)Nos.5176, 5179, 5180, 5181, 5183, 5184, 5185, 5187, 5195, 5190,
5192, 5196 and 5199 of 2020**

- 1.The State of Tamil Nadu,
Rep. by its Principal Secretary,
Home Department,
Secretariat, Chennai – 600 009.
 - 2.The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore, Chennai – 8.
 - 3.The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore, Chennai – 8.
 - 4.The Director General of Police,
O/o. The Director General of Police,
Tamil Nadu, Chennai – 600 004.
 - 5.The Deputy Inspector General of Police (Technical Services),
O/o. The Deputy Inspector General of Police,
Chennai – 4.
- ... Appellants in all the W.As.

Vs.

M.Salai Gayathri	... Respondent in W.A.(MD)No.941/2020
V.Sathish	... Respondent in W.A.(MD)No.942/2020
K.Peer Khader Mydeen	... Respondent in W.A.(MD)No.943/2020
S.Vasim Hasina	... Respondent in W.A.(MD)No.944/2020
R.Raja Durai	... Respondent in W.A.(MD)No.945/2020
G.Kohila	... Respondent in W.A.(MD)No.946/2020
J.Shyam Sundar Singh	... Respondent in W.A.(MD)No.947/2020
S.Ragul	... Respondent in W.A.(MD)No.948/2020
I.Sorimuthu	... Respondent in W.A.(MD)No.949/2020
P.Jairajesh	... Respondent in W.A.(MD)No.950/2020
M.Saranya	... Respondent in W.A.(MD)No.951/2020
N.Gowtham	... Respondent in W.A.(MD)No.952/2020
P.Thirumavalaven	... Respondent in W.A.(MD)No.953/2020

Prayer in all the W.As. :- Appeals filed under Clause 15 of the Letters Patent, against the common order passed by this Court in W.P.(MD)Nos.5441, 5467, 5468, 5469, 4758, 4759, 4760, 4929, 4932, 4930, 4931, 6087 and 6008 of 2019, dated 30.04.2019.

For Appellants
in all the W.As.

: Mrs.J.Padmavathi Devi
Special Government Pleader

For Respondent
in W.A.(MD)Nos.941 to
946/2020 & 948 to
953/2020

: Mr.M.Ajmalkhan
Senior Counsel
for M/s.Ajmal Associates

COMMON JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J)

The issue involved in these batch of Writ Appeals lies in a narrow compass viz., Is a person, who could only perform a regular function by wearing

glasses would become disentitled to a post he can otherwise perform, by making an assessment *qua* the eyesight without wearing glasses?

2.All the respondents before us went through the process of recruitment to the post of Sub-Inspector of Police (Technical) and Sub-Inspector of Police (Finger Print). They have, accordingly, cleared the written examination followed by physical measurement endurance test and viva voce. They were found non-suited pursuant to the examination done by the Medical Board consists of one Eye Specialist, after having been selected provisionally.

3.The test was conducted in tune with the Government Order passed in G.O.Ms.No.1221, Home (Police.9) Department, dated 10.11.2000, by fixing the visual standards upon testing a candidate without wearing glasses. After making the respondents going through the rigour thrice, they were found non-suitable and their candidatures were rejected.

4.The learned Single Judge allowed the Writ Petitions *inter alia* holding that the notification does not specify the visual standards. It is not as if the work cannot be done by wearing glasses. What the respondents lack is only an inadequate and insufficient power in the eyes.

5. Laying a challenge to the aforesaid order passed, the learned Special Government Pleader submitted that the appellants merely relied upon the Government Order passed. The appellants being the employer of the respondents, cannot question the methodology adopted. In the absence of arbitrariness or *mala fides* involved in the views expressed by the Medical Board, the learned Single Judge ought not to have allowed the Writ Petitions.

6. The learned Senior Counsel appearing for the respondents reiterated the views expressed by the learned Single Judge. It is submitted that it is not even the case of the appellants that the respondents cannot undertake the job by wearing glasses. The insufficient power is only a deficiency in the eyes. If the said contention is accepted, any candidate wearing specs would get excluded automatically. The Government Order relied upon itself is contrary to law and the idea to create an equal platform for everybody. A residual restriction or barrier, when it does not affect the performance of the candidate will never stand a scrutiny of the law.

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. 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.

8.In such view of the matter, the classification sought to be made has got no rationale, as the job is sought to be undertaken as a whole. Accordingly, these Writ Appeals stand dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

9.At this juncture, the learned Senior Counsel appearing for the respondents submitted that a direction may be issued to give appointment orders, as the respondents are awaiting for quite sometime despite having become qualified with their name in the provisional list.

10.We are inclined to agree with the said submission made. Accordingly, the appellants are directed to give appointment orders to the respondents within a period of six weeks from the date of receipt of a copy of this judgment.

Index :Yes/No
Internet :Yes
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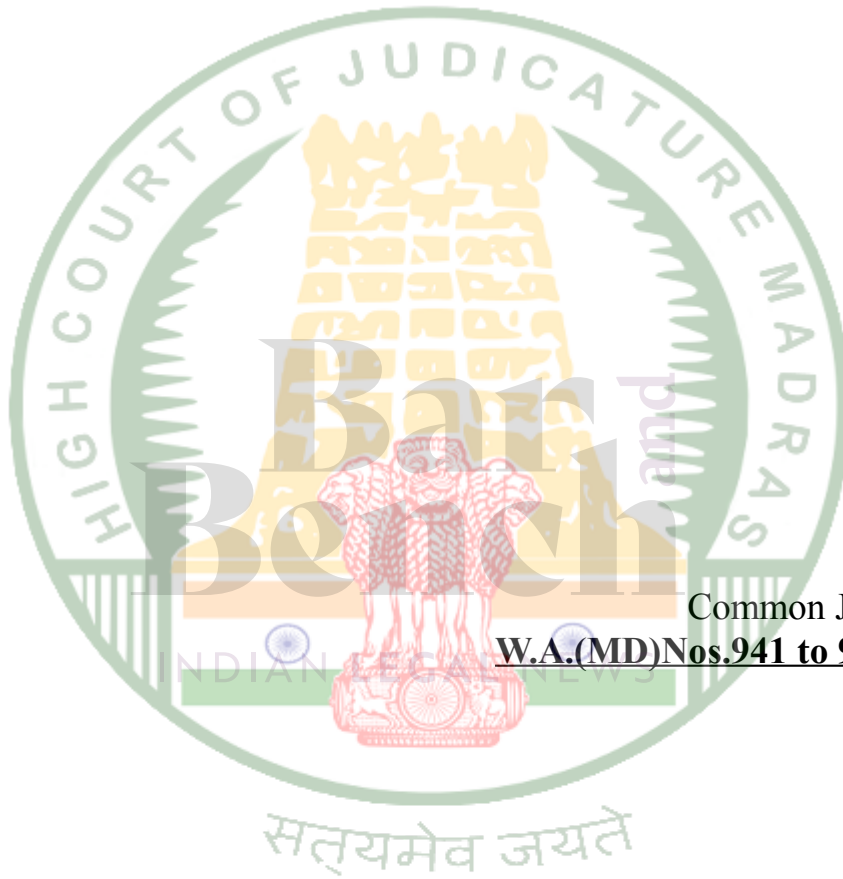
[M.M.S., J.] [S.A.I., J.]
15.02.2021

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

W.A.(MD)Nos.941 to 953 of 2020

M.M.SUNDRESH, J.
AND
S.ANANTHI, J.

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Common Judgment in
W.A.(MD)Nos.941 to 953 of 2020

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