
(2019) 10 TEL CK 0004
In the Telangana High Court
Case No : Writ Petition No. 15675 Of 2019

Lubna Tabassum	Vs	APPELLANT
State Of Telangana		RESPONDENT

Date of Decision : 14-10-2019

Acts Referred:

Constitution Of India, 1950 — Article 14, 15, 16

Citation : (2019) 10 TEL CK 0004

Hon'ble Judges : P. Naveen Rao, J

Bench : Single Bench

Advocate : S. Rahul Reddy, M.V. Rama Rao

Final Decision : Disposed Of

Judgement

1. In pursuant to the recruitment notification dated 31.05.2018 issued by the Telangana State Level Police Recruitment Board, petitioners participated in the selections to the post Code No.12 -Stipendiary Cadet Trainee (SCT) Reserve Sub Inspector of Police (AR) (Men & Women). According to petitioners they secured high marks in the written examination and also in Physical Efficiency Test (P.E.T). However, by applying an illogical normalization marks principle, they are pushed down in the merit list and not included in the final merit list. Aggrieved thereby, this writ petition is filed.

2. The facts are not in dispute. The only issue for consideration is whether, Normalization principle applied by the respondent-Board in comparing the marks secured by women in Physical Efficiency Test with that of men is valid and even if it is valid whether among the women, whether the principle is applied ?

3. On 31.05.2018 the police recruitment Board issued several notifications to make recruitment to various categories of posts including Sub-Inspector of Police (Armed Reserve). The recruitment is governed by Telangana State Police (Stipendiary Cadet Trainee) Rules, 1999 notified vide G.O.Ms.No.315 Home (Police-C) Department dated 13.10.1999. These Rules were further amended and

a notification of which was issued vide G.O.Ms.No.49 Home (Legal) Department dated 10.05.2018. There would be a preliminary written examination. Candidates who qualify in the preliminary written examination would be subjected to Physical Efficiency Test and such of those candidates who clear the Physical Efficiency Test would be subjected to written examination. Based on the marks secured in the Physical Efficiency Test and written examination, final merit list is drawn.

4. The controversy centers around Clause 'E' (ii) under the heading 'Final Selection'. According to this Clause marks secured by men and women in Physical Efficiency Test would be normalized as per the procedure followed by TSLPRB to ensure fairness. Normalized marks of Physical Efficiency Test would be used while drawing the Final Merit List. This clause in the recruitment notification is based on amendment carried out to the recruitment Rules, notified vide G.O.Ms.No.49. Under Rule 3, Annexure I was amended concerning each of the posts which are governed by the said Rules. Sub-Paragraph 3 deals with Sub-Inspector of Police (Armed Reserve). Clause 'F' deals with selection and in this clause Normalized Principle is introduced.

5. In Physical Efficiency Test the Men have to undergo tests in five disciplines i.e., 100 Meters Run, Long Jump, Shotput, High Jump and 800 Meters Run. Women have to undergo Physical Efficiency Test in three disciplines i.e., 100 Meters Run, Long Jump and Shotput. The total marks earmarked for Physical Efficiency Test is 125. For men marks are divided equally in five disciplines and for women for 100 Meters run would carry 45 and Long Jump and Shotput would carry 40 marks each. In the final written examination there are Papers III and IV. Marks secured in Papers III and IV of final written examination alone would be considered to determine the eligibility of candidates.

6. According to learned counsel Sri Rahul Reddy, the procedure adopted by the recruitment-Board is arbitrary, amounts to gender discrimination and therefore, violative of Articles 15 and 16 of the Constitution of India. Having applied relaxed standard of selection for women, there is no justification to adopt Normalization principle to compare the marks secured by men in five disciplines as against three disciplines for women and the same has no justification.

7. He would further submit that the respondent-Board, tried to justify the principle adopted by referring to other Organizations such as Railway Recruitment Board, Universities and Admissions to Educational Institutions. According to learned counsel in all these Organizations, the examination is conducted in more than one session and questions may vary from session to session. Therefore, these Organizations adopt the principle of Normalization, so that no discrimination can be caused to the candidates appearing in one session with different set of questions compared to the candidate appearing in another session with different set of questions. That is not the system here. Therefore, the Normalization principle of other Organizations has no relevance.

8. He would submit that by adopting this illegal Normalization principle, the respondent-Board is only aiming to confine selection of women to 10% even though as per the merit secured by women, they are entitled to occupy higher merit and get selected to more number of posts. It would thus amount to gender discrimination on this ground also.

9. He would further submit that even according to amended Rule, it specifies the procedure followed earlier by the Board should be followed. The same is incorporated in the recruitment notification. The procedure earlier followed is different from the procedure now adopted. When the Rule is very clear i.e., to adopt procedure followed earlier, no justification is made out to adopt different procedure now, the same is illegal and it amounts to arbitrary exercise of power by the Board. He would further submit that amended Rule has not explained what is meant by Normalization. In the absence of explanation of what is meant by Normalization Principle, the principle adopted in the year 2016 ought to have been followed. He would further submit that new formula resulted in glaring breach of Article 14 of the Constitution of India. The respondent-Board has not come out with rational explanation to justify the principle adopted by them.

10. According to learned counsel for petitioners, he has done detailed assessment into the principle of Normalization and also the principle of Normalization adopted by other Organizations and if alternative principle of Normalization as visualized by learned counsel for petitioners was adopted by the respondent-Board, it would not have caused discrimination against women. According to learned counsel, though women have performed exceptionally well in the written examination and their assessment on physical efficiency was relatively good and only because of applying normalization principle, they are pushed down.

11. Learned counsel for the petitioners further contended that the formula of Normalization is not published. It was kept as a top secret and there was no transparency.

12. Per contra, learned Standing counsel for the respondent-Board, submits that admittedly, the women were subjected to relaxed standard of selection in the Physical Efficiency Test. There is no fixed percentage of reservation and women have to compete along with men to the post of Armed Reserve Sub-Inspector. The reservation is applicable horizontally. Thus, when two sets of candidates undergo different selection process, to integrate into one merit list, it is necessary to normalize the marks secured in different environment to arrive at correct merit assessment. The statistics placed on record would disclose that compared to men, the best performance of women in three disciplines which cover both Men and Women, the performance is far low. Further they were not subjected to assessment of suitability in two other disciplines. Having regard to this disparity in assessment of physical efficiency and the fact that only three disciplines were offered to women compared to five disciplines for men, it is necessary to normalize. On detailed study of Normalization principles adopted by

various Organizations including Railway Recruitment Board and in consultation with experts, the Normalization formula is arrived at. By applying the formula, the final marks secured by a candidate in the Physical Efficiency Test is determined and the marks secured in written examination are added to the marks determined in Physical Efficiency Test. Accordingly, final merit list is determined. He would submit that formula is uniformly applied to all the candidates. Therefore, the allegation of discrimination has no merit.

13. He would submit that it cannot be said that there is gender discrimination. It is the case of unequal competition between men and women and therefore, it is necessary to normalize two different parameters applied to men and women to arrive at proper merit list and therefore, Articles 14, 15 and

16 are not violated, as sought to be contended by learned counsel for the petitioners.

14. Learned Standing counsel submits that it is not true to contend that there is no transparency, formula was finalized after thorough analysis of various parameters and then the formula was uniformly applied.

15. Learned Standing counsel further contended that it is not true to contend that women are eliminated and their selection is confined only to 10% reservation. According to him, 29 women were selected, out of which 13 by merit, 15 by applying horizontal reservation and one belonging to meritorious sportsperson category. Thus, the selection is not confined to 10% as sought to be alleged.

16. The Chairman, Police Recruitment Board appeared in person. He has also circulated booklet containing various parameters of Normalization formula and explained in person about various parameters of Normalization principle and justified the decision of Recruitment Board in adopting the formula.

17. To appreciate the respective contentions, it is necessary to look into the amended provision that is brought about vide Notification published through G.O.Ms.No.49 dated 10.05.2018.

18. Clause 3-'F' of Annexure -I appended to the Rules govern the Stipendiary Cadet Trainee Reserve Sub-Inspector post. It reads as under :

"(F) Selection : The final selection of the candidates shall be made strictly on their relative merit as obtained by them based on their score in the Final Written Examination (Paper III and Paper IV) & Physical Efficiency Test. The marks secured by Men and Women in PET shall be normalized as per the procedure followed by the TSLPRB to ensure fairness. The said normalized marks shall be used while drawing the Final Merit List. The provisions of the Telangana Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975 and G.O.P.No.763, GA (SPF.A) Dept., dt.15.11.1975 as amended from time to time shall be applicable."

19. The recruitment notification also incorporates the same clause. The police recruitment Board made assessment of men and women candidates by applying normalization principle.

20. In Paragraph No.8 of the counter affidavit respondent-Board justifies the exercise undertaken by it. It reads as under :

"It would be pertinent to submit that the Physical tests, their number, scoring parameters and standards being totally different, performance of Men and Women in their respective PET will be comprehensively different. Women Candidates who were in consideration for RST AR posts scored an average of only 61%-which is remarkable low by 25 percent points when compared with the 86% of Women.

Similarly more than 60% of the aforementioned Women Candidates scored 86% or more in their PET whereas only 43% of the Men Candidates could surpass the Men Average Score of 61% marks even, not to speak of 86% marks (as scored by Women), such diversely distributed sets of data, one each belonging to Men and Women, for the sake of merger into a Common Merit List, have to be necessarily Normalized."

21. The Board has incorporated in their counter affidavit, the standard required by men candidates and women candidates in two tables. The respondent-Board has tabulated the performance of petitioners and how they fared after applying the Normalization principle in a tabulated form. According to averments in the counter affidavit and as explained by the Chairman of the recruitment Board, the tables would disclose that the performance of women is far low, below the lowest performance of men.

22. The Gradation table and performance table of Men and Women read as under:

TABLE-1:

Gradation table- Annexure I-A of recruitment notification (for men).

100 mtrs. Run (in seconds)

Long Jump

(in meters)

Short Put (in meters)

High Jump (in meters)

800 mtrs run (in seconds)

Points

10.50 and

less

5.81 and
9.61 and
1.71 and
120 and less
25.00
-
5.61-5.80
9.21-9.60
1.66-1.70
120-01-125
23.75
10.51-11.00
5.41-5.60
8.81-9.20
1.61-1.65
125.01-130
22.50
11.01-11.50
5.21-5.40
8.41-8.80
1.56-1.60
130.01-135
21.25
11.51-12.00
5.01-5.20
8.01-8.40
1.51-1.55
135.01-140
20.00
12.01-12.50

4.81-5.00
7.61-8.00
1.46-1.50
140.01-145
18.75
12.51-13.00
4.61-4.81
7.21-7.60
1.41-1.45
145.01-150
17.50
13.01-13.50
4.41-4.60
6.81-7.20
1.36-1.40
150.01-155
16.25
13.51-14.00
4.21-4.40
6.41-6.80
1.31-1.35
155.01-160
15.00
14.01-14.50
4.01-4.20
6.01-6.41
1.26-1.30
160.01-165
13.75
14.51-15.00

3.80-4.00
 5.60-6.00
 1.20-1.25
 165.01-170
 12.50
 15.01-15.50*
 3.65-3.79*
 1.15-1.19*
 170.01-180*
 11.25*
 15.51-16.00*
 1.10-1.14*
 180.01-190*
 10.00*
 16.01-16.50*
 1.05-1.09*
 190.01-200*
 8.75*

TABLE 2:

Standards of Men Candidates

100 mtrs. Run (in seconds)

Long Jump

(in meters)

Short Put (in meters)

High Jump (in meters)

800 mtrs run (in seconds)

Points

10.50 and

less

5.81 and

9.61 and
1.71 and
120 and less
100
-
5.61-5.80
9.21-9.60
1.66-1.70
120-01-125
95
10.51-11.00
5.41-5.60
8.81-9.20
1.61-1.65
125.01-130
90
11.01-11.50
5.21-5.40
8.41-8.80
1.56-1.60
130.01-135
85
11.51-12.00
5.01-5.20
8.01-8.40
1.51-1.55
135.01-140
80
12.01-12.50
4.81-5.00

7.61-8.00
1.46-1.50
140.01-145
75
12.51-13.00
4.61-4.81
7.21-7.60
1.41-1.45
145.01-150
70
13.01-13.50
4.41-4.60
6.81-7.20
1.36-1.40
150.01-155
65
13.51-14.00
4.21-4.40
6.41-6.80
1.31-1.35
155.01-160
60
14.01-14.50
4.01-4.20
6.01-6.41
1.26-1.30
160.01-165
55
14.51-15.00
3.80-4.00

5.60-6.00
 1.20-1.25
 165.01-170
 50
 15.01-15.50*
 3.65-3.79*
 1.15-1.19*
 170.01-180*
 45*
 15.51-16.00*
 1.10-1.14*
 180.01-190*
 40*
 16.01-16.50*
 1.05-1.09*
 190.01-200*
 35*

* Applicable to Ex-servicemen only.

TABLE : 3: Gradation table - Annexure 1-B of recruitment notification (for women)

Standards of Women Candidates

100 mtrs. Run (in seconds)

Long Jump (in meters)

Short Put (in meters)

Points

15.00 and

less

2.78 and above

4.21 and above

100

15.01-15.50

2.75-2.77

4.16-4.20

95

15.51-16.00

2.72-2.74

4.11-4.15

90

16.01-16.50

2.69-2.71

4.06-4.10

85

16.51-17.00

2.66-2.68

4.01-4.05

80

17.01-17.50

2.63-2.65

3.96-4.00

75

17.51-18.00

2.60-2.62

3.91-3.95

70

18.01-18.50

2.57-2.59

3.86-3.90

65

18.51-19.00

2.54-2.56

3.81-3.85

60

19.01-19.50

2.51-2.53

3.76-3.80

55

19.51-20.00

2.50 meters

3.75 meters

50

PERFORMANCE OF PETITIONERS:

TABLE 4:

REGD NO

NAME OF THE CANDIDATE

FWE MARKS FOR 400

POST 12 MARKS FOR 200

PET RAW POINTS FOR 300

POINTS SCALED FOR A MAX 125

D MINUS Z OF WOMEN

AVG OF TOP 0.1% OF WOMEN MINUS Z OF
WOMEN

AVG OF TOP 0.1% OF ALL MINUS Z OF ALL

PET NORM. MARK = Z OF ALL PLUS (E X G / F)

TOTAL MERIT MARKS

(325) FOR POST12 #

A

B = A / 2

C

D = C x 125

/ 300

$$E = D - Z$$

(Wmn)

$$F = X(\text{Top-}$$

Wmn) ?

Z(Wmn)

$$G = X(\text{Top-}$$

All) ?

Z(All)

$$H = Z(\text{All})$$

$$+ (E \times G / F)$$

$$I = B + H$$

1296334

LUBNA TABASSUM

196

98

275

114.58

-1.85

8.57

28.11

90.50

188.5

1052573

BHUKYA SARITHA

185

92.5

275

114.58

-1.85

8.57

28.11
90.50
183
1046131
DORNALA KRISHNAVENI
190
95
290
120.83
4.40
8.57
28.11
111.00
206
1416030
THONDALA LAVANYA
201
100.5
275
114.58
-1.85
8.57
28.11
90.50
191
1140598
MADIGELA RAJITHA
211
105.5
280

116.67

0.24

8.57

28.11

97.36

202.86

1263967

AMUDALA CHANDANA

193

96.5

290

120.83

4.40

8.57

28.11

111.00

207.5

1086767

KOTHI MOUNIKA

188

94

280

116.67

0.24

8.57

28.11

97.36

191.36

1101509

S BHAGYALAXMI

193
96.5
275
114.58
-1.85
8.57
28.11
90.50
187
1019532
MADHUGANI KRISHNAVENI
197
98.5
280
116.67
0.24
8.57
28.11
97.36
195.86
1148140
PATHRI LAKSHMI
188
94
270
112.50
-3.93
8.57
28.11
83.68

177.68

1056243

BALRAJU MAMATHA

201

100.5

280

116.67

0.24

8.57

28.11

97.36

197.86

1044503

PADDAM RAJANI

211

105.5

280

116.67

0.24

8.57

28.11

97.36

202.86

1413257

BUREDDI BHAGYALAXMI

202

101

280

116.67

0.24

8.57

28.11

97.36

198.36

1334010

MERUGU JYOTHI

186

93

280

116.67

0.24

8.57

28.11

97.36

190.36

Tolerance = Max of .005%

OF WHOM

AVERAG E (FOR 125)

STANDARD DEVIATION

AVG + SD

X

Y

Z = X + Y

25,642 MEN

76.69

7.2

83.89

5,863 WOMEN

107.43

9.00

116.43

31,506 ALL

82.41

14.16

96.57

TOP 0.1% OF MEN

106.88

- NA -

- NA -

TOP 0.1% OF WOMEN

125

- NA -

- NA -

TOP 0.1% OF ALL

124.68

- NA -

- NA -

Where

SD =

Standard Deviation

Avg =

Mean or Average

Subscript T =

of Total or All Qualified Candidates

Subscript S =

of All Qualified Candidates pertaining to the Gender Group of the Candidate

Subscript TT =

of the Top 0.1% or Top 10 (whichever is higher) Candidates among all Qualified Candidates

Subscript ST =

of the Top 0.1% or Top 10 (whichever is higher) Candidates among all Qualified Candidates pertaining to the Gender Group of

the Candidate

23. The recruitment agency is the best authority to determine the procedure of selection. According to the Chairman of the Board, on thorough analysis of Normalization principles and on detailed study, formula was evolved. He has circulated a copy of the formula. Table '4' shown above also explains the principle adopted in Normalization process.

24. Power of judicial review on executive decision is confined to illegality, irrationality, procedural impropriety, lack of jurisdiction and competence. As long as some principle is adopted, merely because a person contends that there is a better principle, in exercise of power of judicial review, the Court cannot mandate the recruiting agency to adopt a different principle. When choice is available to the recruiting agency, it is for that agency to choose a principle as it deems fit and Court cannot interfere in such matters.

25. On the scope of judicial review on the decisions of executive, more particularly decision involving technical matters, in *Union of India V J.O.Suryavamshi* (2011) 13 SCC 167, Supreme Court cautioned the Courts to resist the temptation to usurp the power of executive. The wholesome rule in regard to judicial interference in administrative decisions is that if the Government takes into consideration all relevant facts, eschews from considering irrelevant facts and acts reasonably within the parameters of the law, Courts should keep off the same [Paragraph 18, *Federation of Rly.Officers Assn. V Union of India* (2003) 4 SCC 289]. Legality of policy and not the wisdom or soundness of the policy, is the subject of judicial review. [Paragraph 16, *Directorate of Film Festivals Vs Gaurav Ashwin Jain* (2007) 4 SCC 737]. The modern trend points to judicial restraint in administrative action. The Court does not sit as a Court of Appeal but merely reviews the manner in which the decision was made. The Court does not have the expertise to correct the administrative decision. If a review of the administrative decision is permitted, it will be substituting its own decision without the necessary expertise which itself may be fallible. [Municipal Corporation, Ujjain v. BVG India Limited 2018 SCC Online SC 495].

26. It is not in dispute that principle of Normalization based on formula adopted by the recruitment Board, was applied uniformly to all the candidates. No mala fides are attributed; no personal prejudice is alleged; no illegality of all perversive are alleged in the selections in applying the Normalization principle. In a given circumstance, it may have caused hardship to a person in as much as though the person secured more merit in the written examination, but based on the points secured in physical efficiency test, by applying Normalization principle, her marks are reduced and in the order of merit, pushed down, but that cannot be a ground for this Court to interfere and direct the respondent-Board to follow different formula.

27. Further, assuming what is contended is valid, it can not be said that other formula would not cause hardship to the candidates. It is appropriate to note at this stage that selection is based on performance in written examination as well as in physical efficiency test. It being a police service it requires high degree of fitness and therefore assessment of physical efficiency is a very important parameter to select a candidate to serve the police department. Therefore, Physical Efficiency test in various disciplines is more relevant as compared to the assessment of general knowledge and aptitude of a person.

28. Learned counsel for the petitioners sought to justify that in Clause 'F', it is specifically incorporated that Normalization principle has to be as per the procedure followed by the Board to ensure fairness. He placed on record the notification issued in the year 2016 and would contend that there was relative assessment of merit among men and women separately and separate merit list was prepared. When the Rule mandates to adopt same procedure, no justification is made out to adopt a different procedure.

29. It is to be noted that after 2016 notification, the Rules governing the recruitment were amended and amended notification clearly specifies about Normalization and preparation of common merit list. Learned counsel for petitioners cannot seek to take advantage of defective drafting of rule as position in 2016, is not same as now. Thus, earlier procedure followed by the Board has no significance. Having regard to the fact that there is change in the recruitment Rules and after the amended recruitment Rules, this was the first notification issued it cannot be said that Board should adopt same procedure as adopted in earlier selection. The exercise undertaken by the Board cannot be said as illegal. For the first time Normalization principle is applied. It's working has to be tested and can be fine tuned, if required, in future recruitments. However, Court do not see grave illegalities in the Normalization principle warranting interference. Therefore, the contention of learned counsel for the petitioners on this aspect merits no consideration.

30. I therefore, see no illegality, irregularity and procedural impropriety in the Normalization Principle adopted by respondent-Board to arrive at common merit list for men and women, warranting interference by this Court.

31. Matter does not rest here. In addition to the submission that there is gender discrimination against women, learned counsel for petitioners would submit that even among the women, though petitioners secured better merit in written examination, by applying this Normalization principle within the women group, petitioners are pushed down and less meritorious candidates in the written examination secured higher merit. He would submit that within women category there is no justification to apply Normalization principle as among women all of them were subjected to same standard of physical efficiency.

32. By referring to Clause 'F' of the recruitment notification and the Rules, learned Standing counsel pointed out that as it is a common merit list,

Normalization principle has to be applied across the board and the women cannot be segregated to apply different principle as it would defeat the very objective of Rule of Normalization and since there cannot be separate merit list for women, no separate selection method can be adopted.

33. It is the further assertion of respondent-Board that there is change in the method of recruitment. There is no specific reservation for women and reservation is horizontal. Therefore, necessarily a common merit list has to be prepared and after excluding the persons selected against horizontal reservation, the others have to be accommodated which requires a common merit list, except to the extent of horizontal reservations and therefore, there cannot be separate merit list for men and women.

34. Court sees merit in the contention of learned counsel for petitioners with regard to determination of inter se merit among women. Though adopting Normalization principle to equate the marks secured by men and women is valid as method of assessment of physical efficiency between men and women is not same, but when it comes to assessment of merit among the women candidates there appears to be no justification to apply same formula. It would be causing greater injustice to meritorious women candidates vis-à-vis other women and offends Article 14 read with Article 16 of the Constitution of India. With advent of technology it is not impossible to do further exercise after applying Normalization principle and determining common merit list. In a given case, first, by applying Normalization principle over all merit list be drawn and merit list for women to occupy horizontal reservation slots be determined. After this exercise is completed and women candidates are identified, the Board can revert to assessment of merit as is done if recruitment is confined to men/women only and decide inter se merit among women. This would be just and equitable procedure. However, Court is not expressing opinion on this and leaves it to the Board to decide on this aspect. Moreover, merit list was already drawn and by applying Normalization principle across the board merit list is finalized and none of the selected women candidates are parties to this writ petition.

35. Thus, while upholding the Normalization principle adopted by the Police Recruitment Board to determine relative merit of men and women in pursuant to recruitment notification dated 31.05.2018 for the post of Sub-Inspector of Police (Armed Reserve), in so far as inter se merit among women candidates is concerned, the Police Recruitment Board, may reconsider desirability of assessing their merit after completing the exercise to normalize the relative performance of men and women without applying Normalization Principle. If necessary the Board may place on notice the already selected women candidates, consider their objections, if any, and take final decision.

36. The Writ Petition is accordingly disposed of. Pending miscellaneous petitions, if any, shall stand closed.