
(2022) 12 TEL CK 0009
In the Telangana High Court
Case No : Writ Petition No. 5485 Of 2019

Madduri Devendra And Others

APPELLANT

Vs

State Of Telandana

RESPONDENT

Date of Decision : 06-12-2022

Acts Referred:

Constitution Of India, 1950 — Article 14, 16, 19(1)(g), 21, 153

Citation : (2022) 12 TEL CK 0009

Hon'ble Judges : Surepalli Nanda, J

Bench : Single Bench

Advocate : Ramesh Chilla

Judgement

1. Heard learned counsel for the petitioners, learned Government Pleader for Home appearing for the 1st respondent and learned standing counsel appearing for the 2nd respondent.

PERUSED THE RECORD

2. This writ petition is filed to issue Writ order or direction more in the nature of Mandamus declaring the impugned press release No. RC No 88, 89, 90, 91/Rect / Admin-1/2018, Dated 02-03-2019 of the 2nd respondent by which the rule of mathematical rounding is not uniformly applied to the readings among all the MEN and WOMEN candidates and instead two different methods are followed 1. 170.0001 to 170. 4999 Seconds rounded to 170 for MEN and 2. 20.0001 to 20.0049 Seconds rounded as 20.00 Seconds for WOMEN instead 20.0001 to 20.4999 Seconds rounded as 20.00 Seconds for WOMEN as it was done in case of MEN which involve and imply gender bias and discrimination in applying the rule of mathematical rounding of the readings in 100 metres qualifying run in PET and as a result not considering the petitioners herein as Qualified though they have readings between 20.0001 to 20.4999 for the direct recruitment of Stipendiary Cadet Trainee (SCT) Sub Inspector of Police (Civil) SCT RSI (SAR CPL) and Deputy Jailer Notification No RC No 89/Rect /Admin-1/2018, dated

31-5-2018 and for the Direct Recruitment of Stipendiary Cadet Trainee SCT Police Constable (Civil) SCT PC (AR) and Warders Notification No RC No 88 /Rect / Admin-1/2018, Dated 31-5-2018 and issuance of Press Release No RC No 88, 89, 90, 91/Rect /Admin-1/2018, Date 02-03-2019 by 2nd Respondent as illegal, arbitrary, discriminatory against principles of natural justice and gender equality and violative of Articles 14, 16, 153, 19(g) and 21 of Constitution of India and consequently Direct the 2nd respondent to correct the mathematical rounding to 20.0001 to 20.4999 in place of 20.0001 to 20.0049 on par with men for the petitioners herein and also for similarly situated candidates and conduct the remaining events Long Jump and Shot Put forthwith and Allow the Petitioners herein to participate in the further selection process.

3. The counter affidavit filed in the month of March, 2019 by the 2nd respondent. Paras 6 and 7 of the said counter affidavit read as under:

"6. It is submitted that the Petitioners have stated that the 2nd respondent has adopted two different methods i.e.. 170.0001 to 170.4999 seconds rounded for men to 170 seconds and 20.0001 to 20.0049 seconds rounded as 20.00 seconds for women instead of 20.0001 to 20.4999 seconds rounded as 20.00 seconds for women and alleged that gender based discrimination was shown. The Petitioners contention is not correct. Hence, denied the same. It is submitted that the following norms of Mathematical rounding has been followed by the Board:

800

metres run

170 Seconds for Non-Ex-Serviceman / 200 Seconds for Ex-Serviceman rounded to zero decimal places; (e.g.: 170.0001 to 170.4999 Seconds rounded to 170 Seconds for Non-Ex-Serviceman, 200.0001 to 200.4999 Seconds

rounded as 200 Seconds for Ex-Serviceman)

100

metres run

15 Seconds (Non-Ex-Serviceman) / 16.5 Seconds (Ex- Serviceman) / 20 Seconds (Women) rounded to two decimal places; (e.g: 15.0001 to 15.0049 Seconds rounded as 15.00 Seconds for Non-Ex-Serviceman. 16.5001 to 16.5049 Seconds rounded as 16.50 Seconds for Ex- Serviceman. 20.0001 to 20.0049 Seconds rounded as 20.00 Seconds for women

Field Events

Readings of all Categories taken in Metres rounded to two decimal places.

For 100 metres Run event of Men, Ex-Servicemen as well as Women, the benefit given at the limit of disqualification is shown comparatively as follows:

Limit of

Disqualification (in second)

Maximum rounding benefit given

(in second)

Men

15

0.0049

Ex-Servicemen

16.5

0.0049

Women

20

0.0049

7. It is submitted that a Maximum Rounding Benefit of 0.4999 accrues to the Candidates over the Limit of Disqualification of 170 Seconds designated for N Serviceman Candidates and 200 Seconds for Ex-Serviceman Candidates. This is equivalent to a tolerance of $0.4999/170 = .00294 = 0.294\% \sim 3$ seconds over 1000 for Non-Ex-Serviceman Candidates and $0.4999/200 = .00250 = 0.25\% = 2.5$ seconds over 1000 for Ex-Serviceman Candidates.

Thus, in a Middle-Distance Run of 800 metres where the maximum time allowed was 170-200 Seconds, at the limit of disqualification a marginal benefit of less than $\frac{1}{2}$ second is being allowed, which is equivalent to allowing a marginal benefit to 2.5 to 3 Seconds over 1000 Seconds, to facilitate resolution of highly precise values.

The 100 Metres Event is a Short Run or Sprint with the Limit of Disqualification of 15 Seconds designated for Non-Ex-Serviceman Candidates, 16.5 Seconds for Ex-Service Candidates and 20 Seconds for Women Candidates. If the Maximum Rounding Benefit of 0.4999 Seconds is hypothetically applied to the 100 Metres Run-as is being most unreasonably asked for by the Petitioners- then it will be equivalent to a tolerance of $0.4999/15 = .03333 = 3.33\% = 33.3$ seconds over 1000 for non-Ex servicemen candidates, $0.4999/16.5 = .03030 = 3.03\% = 30$ seconds over 1000 for Ex-Serviceman Candidates and $0.4999/20 = .025 = 2.5\% = 25$ seconds over 1000 for Women Candidates From the above, allowing of the Maximum Rounding Benefit of 0.4999 Seconds to such a small Limit of Disqualification of 15-20 Seconds pertaining to the 100 Metres Run which Short-Distance Run or Sprint will bring about disastrous consequences to the whole scheme competition - a substantial benefit of $\frac{1}{2}$ Second, if allowed over a relatively small value of 15 - 20 Seconds will be equivalent to allowing a

considerable benefit of 25 to 33 Seconds over 1000 Seconds, and change of this magnitude if applied to the scientifically fixed values of the Rules and Regulations in the Physical Examination will shatter the fundamental principles of this particular component of Physical Examination. This would also tantamount to unfair treat of the already qualified Candidates.

Owing to the liberally favourable terms offered to Women Candidates in the Physical Efficiency Test of Telangana State Police, especially the 100 metres Run (Which is a compulsory event for Women), that nearly 80% of the Women Candidates are expect qualify in their qualifying test of 100 metres run vis-a-vis the expected qualifying percentage 50% of the male candidates in their qualifying event of 800 metres. Usually, the test parameters in such filtration exams are designed to see that nearly 40 to 60% of the competing candidates are qualified. But as can be seen, the qualification percentage of women which is nearly 80% in the Physical Tests reflects on the liberal treatment being given to them. This can also be seen from the following table wherein the qualifying standards of Run Events of various States are compared.

State

Men

Women

100 metres

Remarks

100 metres

Remarks

Tamilnadu

15 seconds

-

17.5

seconds

-

Andhra Pradesh

15 seconds

-

18 seconds

—

Kerala

14 seconds

-

17 seconds

-

Delhi Police

(Certain Recruitments)

16 seconds

-

18 seconds

-

Telangana

15 seconds

-

20 seconds

-

Karnataka

-

2kms. In 10

Minutes or 1.6 km in 7 minutes

-

400 Mtrs in 2 minutes

Madhya Pradesh

-

800 metres in

160 seconds

-

800 metres

in 210

seconds

Orissa

-

1.6 km in 5 minutes

-

1.6 km in 8

minutes 30 seconds

Uttar Pradesh

-

4.8 kms in 25 minutes

-

2.4 km in 14 minutes

Bihar

-

1.6 km in 6 minutes

-

1 km in 6 minutes

Rajasthan

-

5 kms in 25 minutes or 800 metres in 3
minutes

5 kms in 30 minutes

West Bengal

--

5 kms in 24 minutes or 800 metres in 3 minutes

-

1.5 km in 7 minutes 30 seconds or 800 mtrs in
4 minutes

Punjab

-

1.6 kms in 6 minutes 30

seconds

-

800 metres

in 4 minutes

Haryana

-

2.5 kms in 12 minutes

-

1 km in 6 minutes

Delhi Police

-

1.6 kms in 6-8 minutes

-

800 mtrs. In

3-4 minutes

Assam

-

1.6 kms in 450 seconds

-

800 metres

in 240

seconds

From the above Table it is evident that only South Indian States and Delhi Police in certain recruitments are having 100 metres Run as a Physical Test. As can be seen, the maximum limit of 15 Seconds prescribed for 100 metres Run for Male Candidates in Telangana compares very similar to the 15 Seconds of Tamilnadu and Andhra Pradesh, 14 Seconds of Kerala and 16 Seconds of Delhi. But nowhere in India do they have the maximum limit of 20 seconds for 100 metres Run that is prescribed for Women Candidates in Telangana State - Kerala has 17 Seconds, Tamilnadu has 17.5 Seconds and Andhra Pradesh has 18 Seconds. 2-3 Seconds of additional time given to Women Candidates in Telangana to complete the 100 metres Run makes a huge difference because in a short run as 100 metres sprint- given nearly 15% quota time to complete the Run virtually qualifies

almost all the Participating Candidates - which we are experiencing right now: 80% of the Female Candidates are qualifying when compared to 50% Candidates, among Males. Thus, any further relaxation even by a minuscule proportion will be unfavourably damaging to the whole scheme of recruitment.

4. The Additional Counter Affidavit filed by the 2nd respondents on 23.01.2020, relevant paras 7, 9, 10, 11 and 12 read as under:

7. It is a pre-requisite condition of successive qualification in the sequence of PWT? PET ? FEW as per the procedure notified.

The following excerpts from one of the Notifications: Notification in Re No. 88/ Reet./ Admn-1/2018 dated 31. 05.2018 page 18 to 42

18. SELECTION PROCEDURE/SCHEME C).....

Intimation Letter: Candidates who qualify in the Physical Measurement Test / Physical Efficiency Test will be issued Hall Tickets for appearing in the Final Written Examination with details of Venue, Date and Time. Candidates should bring the Hall Ticket when they come to attend the Final Written Examination.

D) Final Written Examination (FWE): Candidates who qualify in the above Physical Efficiency Test will be required to appear in a Final Written Examination 1(one) paper of 3 (three) hours duration, as described below.

From the above, it is very clear that only those Candidates who qualify at PET Stage of the Recruitment Process alone are eligible to be taken ahead to the Stage of FEW or Trade Tests whereas owing to the directions of the Hon'ble High Court, certain Candidates who did not qualify in the PET were allowed for FWE and their Results were not declared as per the directions of the Hon'ble High Court. Nevertheless, these particular Candidates were individually given adequate information about their FWE Result to facilitate their fair and equitable utilization of the convenience of rechecking/recounting.

9. It is further submitted that all 5 or 3 components of PET to be conducted at one go - and not separately at random timings. The very purpose of PET is to determine the Physical Fitness and Aptitude of each competing Candidate for the Post he/she is being considered for and all the components-5 in the case of Male Candidates and 3 in the case of Female Candidates have to be administered in succession during the same session for each Candidate, to be able to get such valid readings which will be indicative of each of their Physical Efficiency. It is totally unacceptable to conduct one of the components of the PET on one day and have the rest of the components administered on another day.

10. It is also pertinent to mention that in the 3-Types of Merits that are available in the present Recruitment, the placement or otherwise in the Zone of Selection of the Candidates in question is not comprehensively possible as described below-

> Comparison with pertinent Cut-Off possible only in Civil-Type of Merit wherein PET is of qualifying nature.

> No Merit Mark of the Candidate could be arrived at in TSSP-Type of Merit wherein PET has weightage

> No Merit Mark of the Candidate could be arrived at in AR-Type of Merit wherein PET has normalized weightage.

From the above, it would follow that

(a) Primarily, it is not possible to ascertain whether the Candidates in question are in the Zone of Selection for all the Posts, because of non-availability of their PET Marks.

(b) It is necessary that the Government be informed and the opinion of the Government be taken before proceeding any further if certain Candidates who do not deserve Selection have to be rewarded by selective application of the Qualifying Parameters because it is a glaring violation of the Recruitment Procedure.

(c) Even if PET has to be conducted to any of the Candidates now, all the components of PET - 5 in the case of Male Candidates and 3 in the case of Female Candidates, have to be administered in succession during the same session for each Candidate and thus the presumption of qualification of certain PET-Failed Candidates by selective application of inapplicable Rounding Benefit in of the 3 components of PET (by the directions of the Hon'ble High Court) itself will not carry forward. As a result, such course of action will lead to a paradoxically awkward situation.

11. Further, it is also pertinent to mention here that all the Final Written Examinations for the post of SCT SIs, SCT PCs (Civil/etc) has been completed in the month of April. 2019 as per the schedule given and the Certificate Verification is also completed. The Provisional Selection list of SCT PCs Civil and/or equivalent Posts has been issued on 24th September, 2019 and 9 months induction training to the selected candidates was also commenced from 17th January, 2020. At this stage, if the case of Petitioners is considered similarly situated candidates may approach High Court and file Writ Petitions and the settled things may become unsettled.

12. It is further submitted that the Division Bench of this Hon'ble High Court vide order dated 02.08.2019 in Writ Appeal No. 637 of 2019 has held that the Respondent Board is justified in providing different rounding off timings for 800 meters run and 100 meters run as it is based on the distance to be covered. Therefore, the present writ petition is liable to be dismissed.

5. This Court passed interim order on 27.11.2019 as follows:

"The respondents are directed to permit the petitioners to participate in the physical efficiency test. However, the results of the petitioners shall not be published. The respondents shall submit the results of the petitioners in a sealed cover to this Hon'ble Court.

The above exercise shall be completed by the respondents within a period of four weeks.”

DISCUSSION AND CONCLUSION:

6. At para 11 of the Additional counter affidavit, it is specifically pleaded that the final written Examinations for the post of SCT SIs, SCT PCs (Civil/etc) has been completed in the month of April, 2019 as per the schedule given and the Certificate Verification is also completed and the Provisional Selection list of SCT PCs Civil and/or equivalent Posts has been issued on 24th September, 2019 and 9 months induction training to the selected candidates also commenced on 17.01.2020.

7. The grievance of the petitioners is that the rule of mathematical rounding of the readings has not been uniform in respect of men and women candidates and further a direction to the 2nd respondent to correct the mathematical rounding to 20.0001 to 20.4999 in place of 20.0001 to 20.0049 on par with men i.e. petitioners herein and also for similarly situated candidates and conduct the remaining events (Long Jump and Shot Put) at this stage is not permissible in view of the specific averments made in the counter affidavit at paras 6 and 7.

8. It is pertinent to note here that the impugned press release No. RC No 88, 89, 90, 91/Rect /Admin-1/2018, Dated 02-03-2019 of the 2nd respondent – Telangana State Level Police Recruitment Board, Hyderabad alleging that there is no uniformity in applying the rule of mathematical rounding off the reading among all 800 metres and 100 metres events, instead of following two different methods was challenged in W.P.No.10630 of 2019. The High Court observed in the said writ petition that at any rate, the petitioners cannot claim as a matter of right any exemption for relaxation of the conditions as set out in the notification and that on that ground also the High Court is not inclined to interfere as there are no merits in the writ petition and dismissed the same. The petitioners carried out the matter in W.A.No.637 of 2019 before the Division Bench of the High Court and the said writ appeal was also dismissed on 02.08.2019 holding that no fault can be found in the mathematical rounding off being applied to two different races by the respondents.

9. Even according to the petitioners, the petitioners herein have not been qualified by completing 100 metres run in more than 20 seconds therefore, all the pleas and judgments relied upon by the counsel for the petitioner would not help the petitioner. The said order dated 02.08.2019, passed in W.A.No.637 of 2019 is as follows:

“The respondents are justified in claiming that the mathematical rounding off has to be based on the distance to be covered by a candidate. Obviously, a shorter period of time is required to cover a distance of 100 meters, whereas a longer period of time would be required to cover a distance of 800 meters. Therefore, the learned counsel for the appellants is unjustified in claiming that those who had competed in the 100 meters race and those who had competed in the 800

meters race constitute a homogeneous class. Thus, the learned counsel for the appellants is unjustified in claiming that the same yardstick should be applied to two different classes, although they do not form a homogeneous class. Naturally, unlike cannot be treated alike. Therefore, the respondents are justified in giving the benefit of 0.4999 seconds to those who have competed in the 800 meters race, while giving the benefit of merely 0.0049 seconds to those who have competed in the 100 meters race. Since the yardstick being applied is logically fortified, no fault can be found in the mathematical rounding off being applied to two different races by the respondents.

10. In a judgment reported in 2008 (4) SCC page 17 between Dhanamjay Malik and others v State of Uttaranchal and others, the Apex Court has clearly held that those who participate in the selection process cannot be permitted to turn around and challenge their non-selection.

11. A bare perusal of the contents of the counter affidavit extracted above clearly indicate that there are no merits in the writ petition and this Court opines that the respondents are justified in claiming that the mathematical rounding off has to be based on the distance to be covered by a candidate.

12. Taking into consideration the law laid down by the Apex Court in Dhanamjay Malik and others v State of Uttaranchal and others and all the specific averments made in the counter affidavit and additional counter affidavit filed by the respondents herein (referred to and extracted above), and also the view taken by the Division Bench of the High Court in W.A.No.637 of 2019 dated 02.08.2019, this Court is of the considered view that the petitioners cannot seek relaxation of the pre-requisite conditions set out in the notification having been participated in the said events. The writ petition is devoid of merits and hence, is accordingly dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.