



W.P.(MD) No.18404 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDERS RESERVED ON : 13.02.2024

ORDERS PRONOUNCED ON : 26.03.2024

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) No.18404 of 2020

and

W.M.P.(MD) No.15401 of 2020

V.Marikumar

... Petitioner

Vs.

1.The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
No.807, P.D.V. Sengalvaraya Naicker Maligai,
Anna Salai, Chennai-2.

2.The Director General of Police,
Kamarajar Salai,
Kailasapuram,
Mylapore, Chennai-4.

3.The Deputy Director,
Fire and Rescue Services Department,
Rukkumani Lashmipathi Salai,
Egmore, Chennai-18.

4.The Deputy Director,
Jail Department,



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Whales Salai,
Egmore, Chennai-18.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorari Mandamus calling for the records of the impugned order passed by the 2nd respondent in his proceedings in C.No.D2/4108/2018, dated 01.04.2019, quash the same and consequently directing the respondents to issue an order of appointment to the petitioner as Grade-II Police along with the selected candidates in the Notification No. 1/2020 dated 17.09.2020 with pay, all other monetary and service benefits.

For Petitioner	:	Mr.D.Selvanayagam for Mr.M.Pandian
For Respondents	:	Mr.Veerakathiravan Additional Advocate General assisted by Mr.N.Ga.Natraj Government Advocate

ORDER

Heard Sri D.Selvanayagam, learned counsel for the petitioner and Sri Veerakathiravan, learned Additional Advocate General assisted by Mr.N.Ga.Natraj, learned Government Advocate appearing for the respondents.



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2.1. The brief facts that are relevant for the disposal of this writ petition are as under:

2.2. In response to a notification issued by Respondent No.1 for filling up the posts of Grade-II Police Constable/Jail Warden/Fireman, in the year 2012, the petitioner submitted an application and accordingly, he underwent the selection process and emerged as successful candidate for appointment to the post of Grade-II Police Constable. Accordingly, his name was forwarded to Respondent No.2 for police verification and for medical examination before issuing the appointment order. At that stage, the petitioner claimed to have disclosed about his involvement in a criminal case in Crime No.28 of 2012 for the offence under Sections 294(b) and 506(i) of IPC as 4th accused and in view of the involvement of the petitioner in the said criminal case, the petitioner was denied appointment. Thereafter, the petitioner was acquitted in the said crime *vide* C.C.No.447 of 2013 by a judgment dated 28.10.2015 on the ground of 'benefit of doubt'. Aggrieved by the same, the petitioner claims to have filed a criminal revision case before this Court and the said order was stated to have been modified as honourable acquittal. Thereafter, the petitioner approached this Court by



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filing W.P.(MD) No.2544 of 2013 questioning the proceedings dated 21.01.2013 rejecting the claim of the petitioner for appointment and the said writ petition was disposed of by a learned Single Judge by an order dated 26.03.2013 remanding the matter back to the respondents for considering the case afresh in view of honourable acquittal of the petitioner in the above referred crime. Thereafter, the respondents filed W.A.(MD) No.821 of 2024 against the order passed by the learned Single Judge, dated 26.03.2013. However, the said writ appeal was dismissed by judgment dated 24.07.2017. Thereafter, the case of the petitioner was considered by Respondent No.3 once again and the same was rejected by order dated 26.12.2017.

3. For the reasons best known, the petitioner has not taken any steps against the said order dated 26.12.2017. However, he once again approached this Court by filing W.P.No.803 of 2019 seeking a mandamus directing the respondents to consider the representation dated 18.09.2018 said to have been submitted by the petitioner in accordance with the order passed by the Division Bench of Principal Bench of this Court in W.A.No. 472 of 2013. The said writ petition was disposed of by a learned Single



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Judge of this Court by order dated 10.01.2019 directing the respondents to consider the representation of the petitioner dated 19.09.2018 in the light of the order passed by the learned Division Bench in W.A.No.472 of 2013. It is pursuant to the said direction, Respondent No.1 considered the said representation of the petitioner and passed the order dated 01.04.2019 in proceedings C.No.D2/4108/2018. It is aggrieved by the said proceedings, the petitioner approached this Court by filing the present writ petition.

4. This Court called for the said representation dated 19.09.2018 submitted by the petitioner for consideration before Respondent No.1. In the said representation, the petitioner made a claim for appointment to the post of Fireman on the ground that his case was rejected for appointment to the post of Grade-II Police Constable and Jail Warden in view of existence of a rule in the relevant rules prohibiting appointment of a candidate involved in a criminal case in the same recruitment process, but provides for consideration of such cases in the next recruitment process only, As there is no such restriction in the rules governing the post of Fireman, the petitioner appears to have made a representation before Respondent No.1 seeking



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appointment to the post of Fireman. The said request of the petitioner was rejected by Respondent No.1 stating that the claim of the petitioner would be considered in the order of preference that is given by the petitioner while submitting the application in response to the recruitment notification and it is only when the petitioner does not come up consideration for selection in the priorities/in the order given by him, his case will be considered for the next priority. As the case of the petitioner has already come up for consideration for appointment as per his first choice in the order of preference and the same was rejected by the appointing authority because of the involvement of the petitioner in the criminal case, the question of considering his case by following the next preference given in the application does not arise. The relevant paragraphs from the impugned order read as under:

“8. It is informed that Para No.XIV of the Notification of the Common Recruitment of Gr.II PC 2012 with regard to post preference is as follows:

XIV. பதவி முன்னுரிமை (Post Preference):

*இத்தேர்வுக்கு விண்ணப்பிக்கும் அனைத்து
விண்ணப்பதாரர்களுக்கும் தாங்கள் விரும்பும் பதவிக்கான*



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(AR/TSP/JailWarder/Fireman)

விருப்பத்தினை

முன்னுரிமைப்படி

வரிசைகிரமமாக

OMR

விண்ணப்பப்படிவத்தில் வரிசை எண்.15-ல் தவறாமல்

பூர்த்தி செய்யவேண்டும்.

விண்ணப்பதாரர் OMR

விண்ணப்பப்படிவத்தில் தான் விரும்பும் பதவிக்கு

கொடுத்துள்ள முன்னுரிமை மற்றும் மொத்த

மதிப்பெண்களின் அடிப்படையில் தேர்வு செய்யப்படுவர்.

விண்ணப்பதாரர்கள் பிற பதவிக்கான மதிப்பெண்

பெற்றிருந்தாலும் முன்னுரிமை கோரிய பதவிக்கே தேர்வு

செய்யப்படுவார்கள். பின்னர் கோரும் எந்தவிதமான

பதவி மாற்ற வேண்டுதல், எக்காரணத்தை முன்னிட்டும்

பரிசீலிக்கப்பட மாட்டாது என்பதை கவனத்தில்

கொள்ளவும்.

9. As per the Notification the candidate will be selected according to the choice of post preference and based on the marks secured by the candidate. If any appeal seeking different post preference at a later stage will not be accepted. Therefore in view of the norms stipulated in the Notification, the candidate will be considered for the next post preference as per his choice, only if he fails to secure the required cut off marks for the particular post and will not be considered to the next post preference on his disqualification of the selected post preference on account of involvement in Criminal



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No.2 and the same was rejected by duly assigning the reasons as noted hereinabove.

6. This Court having examined the matter thoroughly and also having perused the impugned order, does not find any error or illegality in the impugned order passed by Respondent No.2. In the light of the above, this Writ Petition is devoid of merits and the same is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed.

26.03.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes

ABR

To

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MUMMINENI SUDHEER KUMAR, J.

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3.The Deputy Director,
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Egmore, Chennai-18.

4.The Deputy Director,
Jail Department,
Whales Salai,
Egmore, Chennai-18.

Pre-delivery Order made in
W.P.(MD) No.18404 of 2020

26.03.2024