

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2015

CORAM:

The Honourable Mr.Justice K.K.SASIDHARAN

W.P.No.6308 of 2013  
& M.P.No.1 of 2013

S. Sathish Kumar

..Petitioner

-Vs.-

Tamil Nadu Uniformed Services  
Recruitment Board  
Rep. by its Member Secretary  
No.807, P.T. Lee Chengavarayan  
Naicker Maaligai  
Anna Salai  
Chennai-600 002.

..Respondent

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying for a Writ of declaration declaring the action of the respondent in not issuing the appointment order to the post of Grade II Constable for the year 2012 to the petitioner pursuant to the selection made as illegal, arbitrary and contrary to law and consequently direct the respondent to issue appointment order to the petitioner to the post of Grade II Constable for the year 2012.

For Petitioner : Mr.Balan Haridas

For Respondent : Mr.M.S.Ramesh  
Additional Government Pleader

ORDER

The petitioner submitted an application for appointment to the post of Grade II Constable for the year 2012. The petitioner passed the physical endurance test and all other required tests conducted by the respondent for appointment to the post of Police Constable. However, the petitioner was not selected on the ground that he was involved in a criminal case in C.C.No.53 of 2010 on the file of Judicial Magistrate No.II, Kulithalai. Failure on the part of the respondent to issue appointment order made the petitioner to file this writ petition.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing on behalf of the respondent.

3. The factual matrix shows that the petitioner was denied appointment only on account of his involvement in a criminal case. The petitioner was a juvenile as on the date on which he committed the criminal act in question. The petitioner was acquitted by the Criminal Court by judgment dated 22 February 2011. Since there was no case pending against the petitioner, in the column earmarked in the application as to whether any criminal case was pending, the petitioner answered "No". The involvement of the petitioner in a criminal case is therefore taken as a ground to deny him appointment.

4. The only question that arises for consideration is whether the respondent was correct in denying appointment to the petitioner, notwithstanding the provision contained under Section 19 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter referred to as "the Act").

5. Section 19 reads thus:

"Removal of disqualification attaching to conviction :- (i) Notwithstanding anything contained in any other law, a juvenile who has committed an offence and has been dealt with under the provisions of this Act shall not suffer disqualification, if any, attaching to a conviction of an offence under such law."

6. The question regarding disqualification of a juvenile on account of his conviction came up for consideration before the Supreme Court in *Kalu v. State of Haryana* (2012) 8 SCC 34. The Supreme Court observed that Juvenile Act is intended to protect the juvenile from the rigours of a trial by a criminal court. It prohibits sentencing of a juvenile and committing him to prison. It seeks to attach a child-friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation.

7. Similar question came up for consideration before the Madurai Bench of this Court in *M.Senthil Kumar v. The Director General of Police* (Order dated 20 September 2010 in W.P.No.3130 of 2009). The learned Judge on a careful consideration of Section 19 of the Act held that Police Department was not justified in its act of disqualifying the petitioner therein on account of his involvement in a criminal case.

8. It is not the case of the respondent that a criminal case was pending against the petitioner as on the date on which he made the

application. The column earmarked for "criminal proceedings" only wanted the applicant to state as to whether any case is pending. The petitioner was acquitted well before and as such it was not necessary for him to state the earlier proceedings. Even if he has given the particulars, still he cannot be disqualified on account of Section 19 of the Act as interpreted by this Court in M.Senthil Kumar. I am therefore of the view that the petitioner must succeed.

9. In the result, a writ in the nature of a writ of Mandamus is issued directing the respondent to consider the case of the petitioner for appointment to the post of Grade II Constable for the year 2012 and pass appropriate orders on merits. In short, the claim of the petitioner should not be rejected on the ground of his involvement in a criminal case. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

10. The writ petition is allowed to the extent indicated above. Consequently, the connected MP is closed. No costs.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Tr/

To

Tamil Nadu Uniformed Services  
Recruitment Board  
Rep. by its Member Secretary  
No.807, P.T. Lee Chengavarayan  
Naicker Maaligai  
Anna Salai  
Chennai-600 002.

1 cc to Mr.Balan Haridas ,Advocate, SR.No.11047  
1 cc to Government Pleader,Sr.No11244

W.P.No.6308 of 2013

vsn(co)  
pmk.12.3.2015