

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.A.No.1078 of 2016

1. The Director General of Police
Dr.Radhakrishnan Salai
Mylapore
Chennai 600 004
 2. The Chairman
Uniformed Services Selection Board
P.T.Lee Chengalvaraya Nayakkar Building
No.807, II Floor, Anna Salai
Chennai 600 002
 3. The Superintendent of Police
Nethimedu
Salem District 636 002
- Appellants
- vs-
- S.Kirubakar
- Respondent

Appeal under Clause 15 of the Letters Patent, against the order dated 21.03.2014 made in W.P.No.5053 of 2014.

For Appellants :: Mr.V.Selvaraj
Additional Government Pleader

For Respondent :: Mr.A.Ganapatheswaran

JUDGMENT

(Judgment of the Court was made by HULUVADI G.RAMESH, J.)

Heard the learned Additional Government Pleader for the appellants and the learned counsel representing the respondent/caveator.

2. This writ appeal by the State is against the order of the learned single Judge dated 21.3.2014 made in W.P.No.5053 of 2014, wherein the learned single Judge has allowed the writ petition filed by the respondent/writ petitioner and directed the second appellant/second respondent to issue the appointment order to the respondent/writ petitioner within a period of four

weeks from the date of receipt of a copy of this order and depute him for training.

3. It is not in dispute that the respondent/writ petitioner filed the writ petition for a mandamus directing the appellants/respondents to consider him for appointment to the post of Constable in the Tamil Nadu Special Police Youth Brigade without referring to FIR No.529 of 2013 on the file of Deevattipatti Police Station, which was subsequently closed as "mistake of fact", on the ground that though he was successful in the written examination and in the physical measurement and physical endurance test, he was not selected and that on enquiry, he came to know that his candidature was rejected only because of his involvement in a criminal case. According to the respondent/writ petitioner, he does not suffer from any disqualification, as there was no suppression of any fact on his part and the criminal case was closed as "mistake of fact", since the Inspector of Police found the complaint as false, and that the judicial order in this regard had also become final. The learned single Judge, after hearing the parties and after referring to the provisions of the Tamil Nadu Special Police Youth Brigade Act, 2013 and the Youth Brigade Rules made thereunder as well as the Tamil Nadu District Police Act, 1859 and the Chennai City Police Act, 1888 under which the police force has been reorganised, in extenso, has held that the Tamil Nadu District Police Act, the Tamil Nadu City Police Act, Tamil Nadu Police Standing Orders, etc., in respect of Tamil Nadu Police Force shall not be applicable to the Tamil Nadu Special Police Youth Brigade, since the Tamil Nadu Special Police Youth Brigade is neither a police force nor it forms part of the Tamil Nadu Police Force. The learned Judge also held that the respondent/writ petitioner is not guilty of suppression of material fact relating to his involvement in the criminal case, as there was no criminal case pending against him on the date of his application, since the case came to be registered only on 14.11.2013 on the complaint of his father, which admittedly, after investigation, was found to be false.

4. On the facts and circumstances of this case, as the learned Judge has rightly found that the respondent/writ petitioner is entitled and qualified to be appointed as a Youth Brigade, we find no scope for interference with the order of the learned single Judge. It appears that some untoward incident is said to have taken place while playing volleyball. In this regard, Section 95 of the Indian Penal Code reads thus:-

"S.95. Act causing slight harm.--Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm."

Even otherwise, the apprehension of the appellants as to the non-disclosure of information by the respondent in column No.18 of the application will not in any way take away the right of the respondent or prejudice the appellants while considering his candidature for appointment to the Youth Brigade, as the criminal case was once for all closed as false on 4.2.2014 itself by a judicial order and that the selected candidates were called to attend the training on 12.2.2014. Hence, we find no scope for interference with the impugned order. Accordingly, the writ appeal is dismissed at the admission stage. It is for the appellants to extend the benefit of appointment to the respondent/writ petitioner within a period of three months from today. Consequently, C.M.P.No.14025 of 2016 is also dismissed. No costs.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

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