

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2016

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

Writ Petition No.3905 of 2016
and
WMP No.3257 of 2016

S.Senthilkumar

.. Petitioner

vs.

1.The Director General of Police,
Chennai - 600 004.

2.The Chairman cum Director General of Police,
Tamilnadu Uniformed Services Recruitment Board,
Anna Salai, Chennai - 600 002.

3.The Commissioner of Police,
City Police Office, Salem City.

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the third respondent herein in his proceedings No.Na.Ka.No.A2/956/ 32023/2015 dated 22.12.2015 and quash the same and consequently, direct the respondents herein to appoint the petitioner (Regn.No.633208) as Sub-Inspector of Police (Taluk) for the year 2015, on par with his batchmates with all consequential service benefits within a time frame.

For petitioner : Mr.G.Bala
for M/s.G.Bala & Daisy

For respondents : Mr.A.Kumar
Special Government Pleader

ORDER

Mr.A.Kumar, learned Special Government Pleader takes notice for the respondents.

2. By consent, this Writ Petition is taken up for disposal at the admission stage itself.

3. This Writ Petition has been filed challenging the impugned order dated 22.12.2015 passed by the third respondent/Commissioner of Police, Salem City, in and by which, the petitioner was informed that he cannot be recommended for selection of the post of Sub-Inspector of Police as per the ratio laid down by the Full Bench of this Court in W.P.No.38298 of 2005 dated 28.2.2008 holding that "by virtue of Explanation 1 to clause (iv) of Rule 14(b) of TNSPSS Rules, a person acquitted on benefit of doubt or discharged in a criminal case, can still be considered as disqualified for selection to the Police Service of the State and that the same cannot be termed as illegal or unjustified".

4. The learned counsel appearing for the petitioner would submit that the petitioner has applied to the post of Sub-Inspector of Police for the year 2015 through on line and he was called to attend the written test on 23.5.2015. After attending the written test, he was called to attend the physical measurement, endurance and physical efficiency test on 3.8.2015. Thereafter, he also attended interview on 19.9.2015. On 1.12.2015, police verification was conducted. He was called to the office of the third respondent for medical test and certificate verification. Finally, he was asked to fill up a form in which a question was asked whether he had involved in any criminal case. The petitioner had stated that he was implicated in a criminal case in C.C.No.256 of 2005 and was acquitted on 28.10.2009. Subsequently, on verification, it is found that the petitioner was not selected. In the meanwhile, on 22.12.2015, the third respondent has passed the impugned order rejecting the selection of the petitioner for the post of Sub-Inspector of Police.

5. Adding further, the learned counsel appearing for the petitioner would submit that the petitioner was falsely implicated in the case and after thorough investigation and on examination of oral and documentary evidence adduced in the case, the Trial Court acquitted him in criminal case in C.C.No.256 of 2015, on 28.10.2009. If the accused is acquitted after appreciation of oral and documentary evidence made available in such case, it would amount to honourable acquittal. Therefore, the ratio laid down by the Hon'ble Full Bench of this Court in W.P.No.38298 of 2005 dated 28.2.2008 would not be applicable to the petitioner. Hence, the reliance placed on the above judgement by the third respondent is inapplicable to the present case, he pleaded.

6. But, this Court is unable to find any merit in the Writ Petition. The reason is that the petitioner was Accused No.1 and the prosecution was able to produce oral and documentary evidence. Though he was acquitted it was only on the ground of benefit of doubt and the Full Bench of this Court in

W.P.No.38298 of 2005 has held that a person acquitted on benefit of doubt in a criminal case, can still be considered as disqualified for selection to the police service of the State and that the same cannot be termed as illegal or unjustified. It is also relevant to extract the relevant portion of the Full Bench Judgment as follows:-

"by virtue of Explanation 1 to clause (iv) of Rule 14 (b) of TNSPSS Rules, a person acquitted on benefit of doubt or discharged in a criminal case, can still be considered as disqualified for selection to the Police Service of the State and that the same cannot be termed as illegal or unjustified."

In the present case, the petitioner was implicated as 1st accused in the criminal case in C.C.No.256 of 2005. Although the learned Trial Court has acquitted him by giving the benefit of doubt, in my considered opinion, in the light of the above observation of the Full Bench, the prayer sought for by the petitioner cannot be entertained by this Court. Accordingly, I do not find any infirmity or illegality in the impugned order passed by the third respondent.

7. In fine, the Writ Petition fails and the same is dismissed. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

सत्यमेव जयते

To

1.The Director General of Police,
Chennai - 600 004.

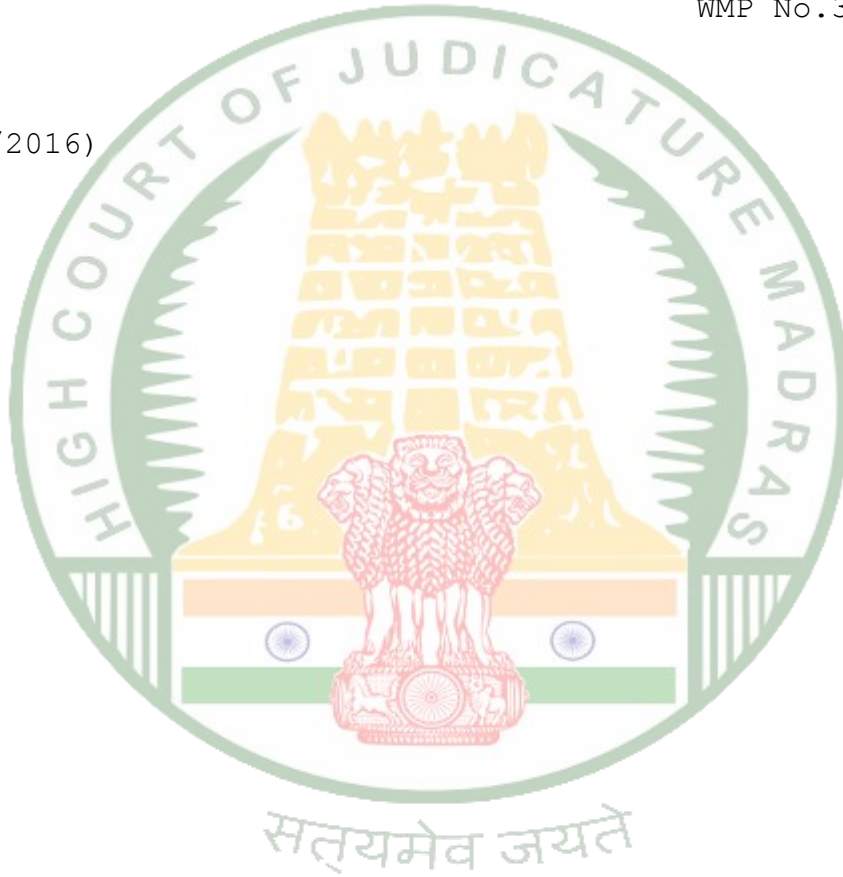
2.The Chairman cum Director General of Police,
Tamilnadu Uniformed Services Recruitment Board,
Anna Salai, Chennai - 600 002.

3.The Commissioner of Police,
City Police Office, Salem City.

+1cc to M/S.Bala & Daisy, Advocate, S.R.No.6964
+1cc to the Government Pleader, S.R.No.7228

W.P.No.3905 of 2016
and
WMP No.3257 of 2016

ppa (CO)
srg (26/02/2016)



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