

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE M.M.SUNDRESH

W.P. No.8014 of 2016

Chinnathambi alias Venkatesan

.. Petitioner

-vs-

1.The Deputy Inspector General
of Police, Vellore Range, Vellore.

2.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the records of the 1st respondent in connection with the impugned orders passed by him in Na.Ka.No.A2/1919/2015 dated 30.12.2015 and quash the same and direct the respondents to appoint the petitioner as Sub-Inspector of Police based on his provisional selection and send him for institutional training and grant him all consequential service and monetary benefits.

For Petitioner : Mr.M.Muthappan

For Respondents : Mr.P.H.Aravind Pandian,
Addl.Adv.General, assisted by
Mr.S.T.S.Murthi, Govt. Pleader
& Mr.V.Shanmugasundar,
Government Advocate

* * * * *
O R D E R

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner participated in the selection process for recruitment of Sub-Inspectors in pursuance to the advertisement dated 08.02.2015. He cleared the exam in his own category, went

through the Physical Endurance Tests and the Interview and was, thus, enlisted as part of the tentative list of selection, which was declared on 15.11.2015. However, on police verification being done, his appointment has been rejected vide impugned order 30.12.2015 on the ground of suppression of material information regarding his involvement in a criminal case.

2.It is the case of the petitioner that he was acquitted in C.C.No.66 of 2012 vide order dated 04.01.2013 of Judicial Magistrate No.II, Walajah, Vellore District, much prior to the selection process and thus, there was no criminal case pending against him. Further, in the relevant column, he did not disclose the aforesaid fact both on account of the reason that it provided for disclosing any pending criminal case and the head constable, who assisted him in filling in the form, guided him saying that in view of the acquittal, this fact need not be disclosed.

3.Learned Additional Advocate General, on instructions and verification of facts, submits that it is not a case of clean acquittal, but of benefit of doubt by the Court and that too on account of all witnesses turning hostile. He seeks to rely upon Explanation (1) to Rule 13 of Special Rules for Tamil Nadu Police Subordinate Service, which reads as under:

'Explanation (1) : A person who is acquitted or discharged on benefit of doubt or due to the fact that the complainant turned hostile, shall be treated as a person involved in a criminal case.'

4.To substantiate that there can be no quibble with the aforesaid rule's application, it is submitted that the legal position is no more res integra in view of the two judgments of this Court. The first judgment is of Full Bench of this Court in Manikandan vs. Chairman, Tamil Nadu Uniformed Services Recruitment Board, 2008 (2) CTC 97, and the second judgment is of Five Judges Bench of this Court (with majority of 4 : 1) in J.Alex Ponseelan vs. The Director General of Police, Tamil Nadu, 2014 (2) CTC 337. The constitutional validity of Rule 14 (b)(iv) with Explanation (1) of the Tamil Nadu Special Police Subordinate Service Rules, 1978, which is pari materia to Explanation (1) to Rule 13 of the Special Rules for Tamil Nadu Police Subordinate Service, was upheld as it satisfied the twin tests of being founded on intelligible differentia and such differentia having nexus with object sought to be achieved and thus, not being violative of Article 14 and 16 of the Constitution of India. The object was to prevent entry into the services who were involved in criminal cases to ensure that character and antecedents in police service of such personnel was beyond shadow of doubt. Since the employer can prescribe qualification for such recruitment, it would include prescription even for disqualification and thus, the persons who

were never involved in any criminal case could not be equated to one who was involved in a criminal case, but may have received benefit of doubt and where the complainant himself had turned hostile.

5.The case of the petitioner falls within the four corners of the aforesaid principle and thus, even if the petitioner had disclosed this past proceedings, still he would have been deprived of the benefit of employment. Thus, it is not a case where it is only on account of non-disclosure that the petitioner is not liable to be employed.

6.In view of the aforesaid facts and circumstances, we are unable to grant any relief to the petitioner and thus, the petition has to fail.

7.Writ petition, accordingly, stands dismissed, leaving the parties to bear their own costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

sra
To

1.The Deputy Inspector General
of Police, Vellore Range, Vellore.

2.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai.

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