

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2016

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.8040 of 2016

and

W.M.P.Nos.7157 & 7158 of 2016

R.Murugan
S/o.Ravichandran
No.74, Old Cuddalore Street,
Ariyankuppam,
Puducherry - 7.

...Petitioner

VS

1.Union of India,
represented by
The Inspector General of Police,
Puducherry.

2.The Superintendent of Police,
Head Quarters,
Puducherry.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the concerned records relating to the order No.2853/A1/Esst.I (B)/POL.2014 dated 20.02.2016 passed by the second respondent and quash the same and consequently direct the respondents to appoint the petitioner as Home Guard in the Puducherry Home Guards Organisation with all consequential monetary and other benefits.

For Petitioner : Mr.M.Gnanasekar
For Respondents : Mr.R.Syed Mustafa
Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned memorandum dated 20.02.2016 issued by the Superintendent of Police (HQ), Puducherry, cancelling the provisional selection of the petitioner for the post of Home Guard on the ground that he failed to disclose the details in the Attestation Form about his involvement in a criminal case which amounts to willful suppression of facts.

2. The learned counsel appearing for the petitioner assailed the impugned order stating that the petitioner belongs to MBC community, studied Diploma in Mechanical Engineering during the year 2010-2013 and after completing the course with distinction, took part in the selection process for the post of Home Guards in Puducherry. The petitioner was selected and his name was included in S.No.92 of the Provisional Selection List of Home Guard (TUD-3-7392) dated 15.09.2015. Pursuant thereto, the petitioner was asked to fill up the attestation form and the petitioner has furnished the same on 30.10.2015. Since the petitioner was not involved in any criminal case nor arrested in any case, he has mentioned 'No' in column No.12.1(a). Subsequently,

the petitioner came to know that a case was registered by the Mudhaliarpur Police Station against him on 25.06.2008 when he was a juvenile. The case was referred to the Juvenile Justice Board and by order dated 05.01.2016, the petitioner was ordered to be released after due advice and admonition under section 15(1)(a) of the Juvenile Justice (Care & Protection of Children) Act, 2000. Further, it was made clear that pursuant to such order, the petitioner shall not suffer disqualification. The petitioner has submitted a representation to the respondents bringing to the notice of the respondents about the order passed by the Juvenile Justice Board on 05.01.2016. However, without considering the same, the respondents, by the impugned memorandum, have cancelled the name of the petitioner in the provisional selection list for the post of Home Guard. It is contended by the learned counsel for the petitioner that the reasoning of the second respondent that the petitioner failed to disclose the details in the Attestation Form about his involvement in a criminal case which amounts to willful suppression of facts is totally untenable and unjustified and hence, the same is liable to be interfered with.

3. In reply, the learned standing counsel for the respondents, submitted that in a similar circumstance, this Court has also passed an order in W.P.(MD) No.3130 of 2009 dated 20.09.2010 with regard to Section 19 of Juvenile Justice (Care & Protection of Children) Act, 2000. In the said order, it has been held

that when a person has given answer as required regarding the criminal case, it goes without saying that he has not suppressed any material fact. The learned standing counsel further submitted that the petitioner has mentioned 'No' in column 12.1(a) which shows that he has deliberately suppressed the fact.

4. This Court finds no merits in the submission of the learned standing counsel for the respondents. It is not in dispute that the petitioner was provisionally selected for the post of Home Guard and his name was included in Sl.No.92 of the provisional selection list dated 15.09.2015. Pursuant to the selection, as per instructions, he has furnished the filled in attestation form, in which he has mentioned 'No' in column No.12.1(a). On coming to know that a case was registered against him when he was a juvenile and an order of release has been passed by the Juvenile Justice Board after due advice and admonition under section 15(1)(a) of the Juvenile Justice (Care & Protection of Children) Act, 2000, the petitioner, on his own volition, submitted a representation to the respondents informing such facts. Therefore, the reasoning given in the impugned memorandum that the petitioner has failed to disclose the details in the Attestation Form about his involvement in a criminal case which amounts to willful suppression of facts is totally untenable because the petitioner has given all the particulars of the criminal case pending to the respondent.

5. In view of the aforesaid reasons, this Court is of the view that Section 19 of Juvenile Justice (Care & Protection of Children) Act, 2000, viz., removal of disqualification attaching to conviction, cannot be applied to the petitioner's case.

Accordingly, this Writ Petition is allowed and the impugned memorandum dated 20.02.2016 issued by the Superintendent of Police (HQ), Puducherry, is set aside. The respondents are hereby directed to take steps to issue appointment letter to the petitioner within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

15.03.2016

Index:yes/no
Internet:yes
gm

To

1.The Inspector General of Police,
Union of India,
Puducherry.

2.The Superintendent of Police,
Head Quarters,
Puducherry.

T.RAJA, J
gm

W.P.No.8040 of 2016

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