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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2016

CORAM:

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN

W.P. (MD) No. 6103 of 2013

and

M.P. (MD) No. 1 of 2013

Janakaraj

: Petitioner

Vs.

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

2. The Chairman,
Tamil Nadu Uniformed Services
Recruitment Board,
P.T. Lee, Chengalvaraya Naicker Building,
No. 807, 2nd Floor, Anna Salai,
Chennai-600 002.

3. The Superintendent of Police,
Namakkal District,
Namakkal.

: Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the third respondent in Na.Ka.No.A2/11804/2012, dated 07.12.2012, and quash the same as illegal and consequently, direct the first and second respondents to declare the petitioner as selected candidate for the post of Grade II Police Constable (Armed Reserve Police) in the Tamil Nadu Uniformed Services Recruitment for the year 2012.

For Petitioner : Mrs.J.Padhmaavathi Devi

For Respondents : Mr.D.Muruganantham,
Additional Government Pleader

ORDER

This Writ Petition is directed against the order dated 07 December, 2012, whereby and whereunder, the third respondent informed the petitioner that he is not eligible for appointment to the post of Police Constable on account of his involvement in a criminal case and suppression of the said fact in the attestation form submitted by him.

2. The petitioner applied for appointment to the post of Grade II Police Constables/Grade II Jail Warders/Firemen in 2012. He appeared for the written test and physical test. However, he was not selected. While so, the petitioner received the impugned communication from the third respondent informing him that he was not eligible to be appointed to the service by direct recruitment as he was involved in a criminal case in Crime No.208 of 2007 on the file of Kattuputhur Police Station,



Trichy District. Feeling aggrieved, the petitioner has come up with this Writ Petition.

3. The Superintendent of Police, Namakkal, the third respondent herein filed a counter-affidavit indicating that the petitioner has suppressed the factum of his involvement in a criminal case in his attestation form. The subsequent enquiry conducted by the police revealed that he was involved in a criminal case registered by Kattuputhur Police Station. The petitioner was, therefore, not eligible to be appointed as a Police Constable, as per Rules.

4. The learned counsel for the petitioner contended that though the petitioner was initially acquitted by giving him benefit of doubt, the same was subsequently modified in a criminal revision filed by him. The Revisional Court acquitted him honourably and as such, he is entitled to be appointed as Police Constable.

5. The learned Additional Government Pleader, on the other hand, contended that the petitioner failed to disclose the factum of his involvement in a criminal case and as such, the third respondent was right in passing the impugned order. According to the learned Additional Government Pleader, the so called honourable acquittal was a subsequent event, which has nothing to do with the order impugned in this Writ Petition.

6. There is no dispute that the petitioner was involved in a criminal case. The Trial Court acquitted him, by judgment dated 31 October, 2007. The acquittal was by giving him benefit of doubt. The petitioner made an application for appointment as Police Constable in 2012. The petitioner appears to have not disclosed the factum of his involvement in a criminal case while submitting the attestation form. The enquiry conducted by the police revealed his involvement in a criminal case. The third respondent, therefore, denied appointment to the petitioner. It is also a matter of record that only after passing the impugned order, the petitioner got the benefit of a honourable acquittal, by filing CrI.R.C.No.448 of 2013.

7. The impugned order was passed on 07 December, 2012. The revision petition was filed only in 2013. It is, therefore, evident that it was only to overcome the order passed by the third respondent, the petitioner filed a revision petition and got the observation with regard to benefit of doubt expunged. The subsequent order passed by the High Court on 30 April, 2013, giving the petitioner benefit of honourable acquittal would not come to his rescue, in view of the fact that the impugned order was passed as early as on 07 December, 2012. While passing the order by the third respondent, the petitioner was having the benefit of only an acquittal by giving him benefit of doubt. It was only after the impugned order, the order of honourable acquittal was passed. Such being the factual position, the petitioner is not correct in his contention that he is entitled to be appointed as Police Constable on account of the order dated 30 April, 2013 in CrI.R.C.No.448 of 2013. I, therefore, do not find any merit in the contention taken by the petitioner.



8. The learned counsel for the petitioner submitted that the High Court passed an order of honourable acquittal on 30 April, 2013 and as such, the earlier punishment should not stand in the way of considering the candidature of the petitioner for future selection.

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9. I do see considerable force in the said submission. The petitioner was honourably acquitted by this Court, by order dated 30 April, 2013, in CrI.R.C.No.448 of 2013. Therefore, I make it clear that the impugned order passed by the third respondent dated 07 December, 2012, would not stand in the way of considering the candidature of the petitioner in future, in case he is otherwise eligible.

10. The Writ Petition is disposed of with the above observation. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/

Assistant Registrar(T&P)

/TRUE COPY/

Sub Assistant Registrar

To

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

2.The Chairman,
Tamil Nadu Uniformed Services
Recruitment Board,
P.T. Lee, Chengalvaraya Naicker Building,
No.807, 2nd Floor, Anna Salai,
Chennai-600 002.

3.The Superintendent of Police,
Namakkal District,
Namakkal.

+1cc to M/S.J.Padmavathi Devi, Advocate in SR.No.32010

+1cc to Special Government Pleader in SR.No.32310

Order made in
W.P. (MD) No.6103 of 2013
Dated: 21.06.2016

SML

PA/GSV-PM/SAR II/24.06.2016/3P/6C (IT)