

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.12.2017

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THE HONOURABLE Mr.JUSTICE T.RAJA

W.P.No.27952 of 2017
and W.M.P.Nos.29999 of 2017

L.Parthiban

... Petitioner

Vs

1.The Superintendent of Police,
O/o.The Superintendent of Police,
Krishnagiri District.

2.The Director General of Police,
Head Office,
Chennai-4.

3.Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office campus,
Pantheon Road,
Egmore, Chennai-8.

... Respondents

Writ Petition filed under Article 226 of The Constitution of India seeking for issuance of Writ of Certiorari to call for the records in connection with the order bearing Ref.No.Na.Ka.No.A2/15484/Ku.Va.01/2017 dated 10.10.2017 issued by the 1st respondent and quash the same.

For Petitioner : Mr.S.Ravi
for Mr.M.Sathia Vel

For Respondents : Mr.K.Venkataramani,
Addl. Advocate General assisted by
Mr.V.Jayaprakash Narayanan,
Spl. Govt. Pleader

ORDER

This Writ Petition has been directed against the impugned order dated 10.10.2017 issued by the first respondent rejecting the petitioner's selection as Gr.II Police Constable stating that the petitioner did not declare at the time of filling up the application that a charge sheet is pending against him in C.C.No.206 of 2015 on the file of Judicial Magistrate Court, Denkanikottai.

2.Heard the learned counsel appearing for both sides and perused the materials available on record.

3.Mr.S.Ravi, learned counsel appearing for the petitioner submitted that the petitioner's name has been wrongly implicated in FIR.No.222 of 2015. He further submitted that since the name of the petitioner was mistakenly shown in the FIR, his name was not shown in the charge sheet laid in C.C.No.206 of 2015 before the learned Judicial Magistrate, Denkanikottai, hence, prays to set aside the impugned order passed by the first respondent.

4.Mr.K.Venkataramani, learned Additional Advocate General assisted by Mr.V.Jayaprakash Narayanan, Special Govt. Pleader, appearing for the respondents fairly submitted that FIR was registered on 13.05.2015 showing the name of the petitioner herein as one of the accused for a trivial

offence along with his father and brother and a charge sheet was laid in C.C.No.206 of 2015 before the learned Judicial Magistrate, Denkanikottai, wherein, the petitioner's name did not find place and the learned Judicial Magistrate referred the issue before the Lok Adalat for compromise between the parties. The Lok Adalat, taking note of the trivial allegation, imposed fine of Rs.1,600/- each and thereafter, fine of Rs.1,600/- was paid by both his father and brother before the Lok Adalat on 13.06.2015. In view of the above facts that the petitioner had not faced the ordeal of trial and not suffered any conviction or acquittal in my view, the first respondent ought not to have disqualified the petitioner.

5. Besides, it may be mentioned that the Hon'ble Apex Court in *Avtar Singh vs. Union of India and others* [(2016) 8 SCC 471] held that if a person is convicted in a case of trivial in nature, like shouting of slogans at young age or for a petty offence, such person cannot be made disqualified. For better appreciation, paragraph No.38.4.1 thereof is quoted below:-

"38.4.1. In a case trivial in nature in which conviction had been recorded, such as shouting slogans at young age or for a petty offence which if disclosed would not have rendered an incumbent unfit for post in question, the employer, may, in its discretion, ignore such suppression of fact or false information by condoning the lapse."

A perusal of the above observation shows that even if a person is convicted in a case of trivial in nature, like shouting of slogans or for petty

offence, such offence, which is trivial in nature, would not render the incumbent unfit for the post in question. Therefore, in the present case, although the name of the petitioner was found in place in FIR for the offence trivial in nature, finally, the matter was compromised between the parties before the Lok Adalat as stated supra. In such view of the matter, the impugned order dated 10.10.2017 rejecting the candidature of the petitioner for not disclosing the pendency of charge sheet against him is set aside.

6. In fine, for the reasons stated above, the writ petition is allowed. Consequently, the first respondent is directed to issue the order of appointment to the petitioner within a period of four weeks from the date of receipt of a copy of this order and thereafter, the petitioner shall be sent for training. At this juncture, it is stated by the learned Additional Advocate General that the candidates selected have already been sent for training and therefore, the petitioner will be sent for training only in the next batch. The said submission is recorded.

No costs. Consequently, connected Miscellaneous Petition is closed.

13.12.2017

Index : Yes/No
Internet : Yes/No
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To

1.The Superintendent of Police,
O/o.The Superintendent of Police,
Krishnagiri District.

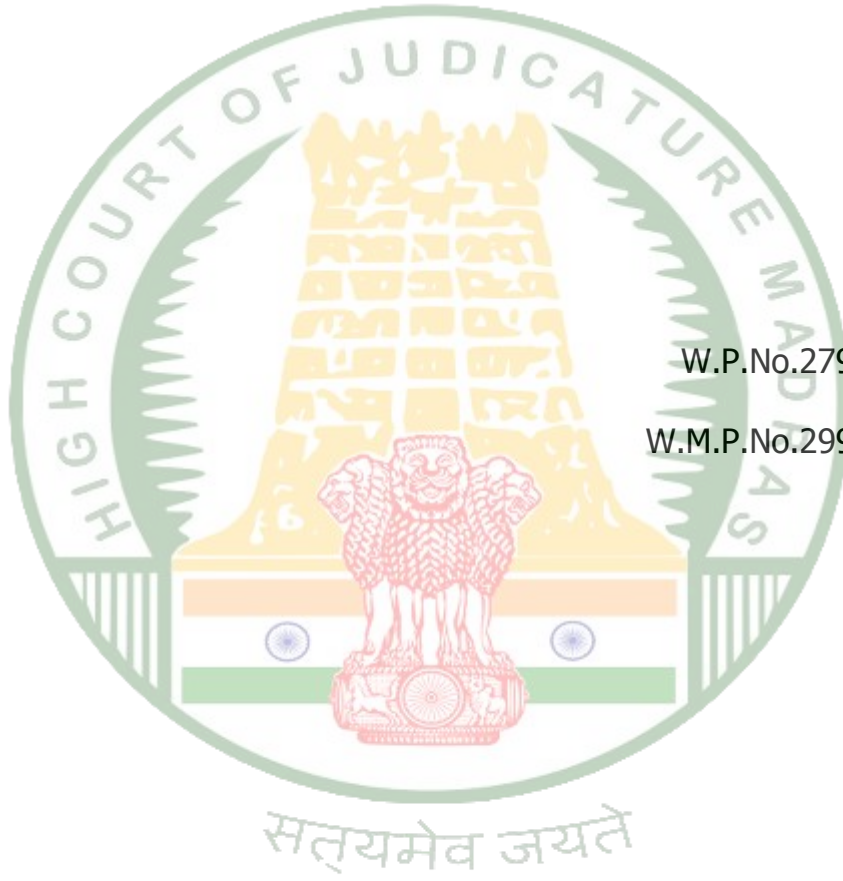
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T.RAJA, J.
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