

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.12.2017

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THE HONOURABLE Mr.JUSTICE T.RAJA

W.P.No.28288 of 2017

and W.M.P.No.30406 of 2017

S.Jegan

... Petitioner

Vs

1.The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Chennai-8.

2.The Secretary to Government,
Home Department,
Chennai-9.

3.The Director General of Police,
Chennai-4.

4.The Superintendent of Police,
Cuddalore District,
Cuddalore.

.... Respondents

Writ Petition filed under Article 226 of The Constitution of India seeking for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the memorandum under reference Na.Ka.No.A4/333/TSP/2017-7 dated 09.10.2017 of the 4th respondent and quash the same.

For Petitioner : Mr.N.Anand Venkatesh

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

O R D E R

This Writ Petition has been directed against the impugned order dated 09.10.2017 issued by the fourth respondent to the petitioner stating that the petitioner has involved in a criminal case, i.e., Crime No.123/2010 for the offences under Sections 147, 148, 294[b], 323 and 324 of IPC.

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

3.The petitioner faced registration of FIR on 31.03.2010 in Crime No.123/2010 for the offences under Sections 147, 148, 294[b], 323 and 324 of IPC on the file of Kadampuliyur Police Station, Cuddalore District.

4.Learned counsel appearing for the petitioner submitted that the learned Judicial Magistrate, after trial in C.C.No.84 of 2010, wherein the petitioner was arrayed as A-2, acquitted all the accused on 06.11.2014. He further submitted that this petitioner had disclosed about the pendency of the criminal case in C.C.No.84 of 2010 on the date of submitting his application on 09.02.2017, which was ended in acquittal on 06.11.2014 and therefore, sought to set aside the impugned order dated 09.10.2017 passed by the fourth respondent.

5.Learned Additional Advocate General appearing for the respondents vehemently opposed the case of the petitioner and fairly brought to the notice of this Court to the settled position of law held in paragraph No.10 of Avtar Singh's case [Avtar Singh Vs Union of India and Others] reported in [2016] 8 SCC 471.

6.A careful reading of the above said judgment gives a clear finding to the crux of the issue raised by the petitioner that a candidate either inadvertently or deliberately failed to mention in the appropriate column regarding the pendency of the criminal case against him, at the time of submitting his application before the authority or deliberately omitted to mention the pendency of FIR or the criminal case, if subsequently, at the crucial time of police verification, disclosed all the information from the beginning, namely, registration of FIR till the culmination of criminal case, such disclosure could be treated as curing the defect which has occurred in the form.

7.Therefore, in the present case, the attitude of the petitioner is to be taken note of, at least at the crucial time of police verification, disclosed the information about the involvement in a criminal case and this cannot be treated as deliberate suppression of the vital information in the application.

8.Placing reliance on Explanation 2 of Rule 13 of Special Rules for Tamil Nadu Police Subordinate Services, learned Additional Advocate General submitted that the petitioner may be permitted to participate in the next recruitment.

9.In that view of the matter, the impugned order dated 09.10.2017 passed by the fourth respondent is set aside and this Writ Petition stands allowed and the petitioner is at liberty to participate in the next recruitment. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Chennai-8.

2.The Secretary to Government,
Home Department,
Chennai-9.

3.The Director General of Police,
Chennai-4.

4.The Superintendent of Police,
Cuddalore District,
Cuddalore.

+1 CC to Mr.N.Anand Venkatesh, Advocate Sr.No.89763

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GMI (CO)
KP(17/04/2018)