

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2017

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.1578 of 2013

and

M.P.No.2 of 2013 and 1 of 2015

S.Satheesh Kumar

... Petitioner

Vs.

1. The Director General of Police,
Kamarajar Salai, Chennai - 4.

2. The Superintendent of Police,
Kancheepuram District,
Kancheepuram.

... Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the concerned records relating to Na.Ka.No.M1/6241/2012 dated 10.12.2012 passed by the second respondent and quash the same and consequently direct the second respondent to issue an order of appointment to the petitioner appointing him as Police Constable Grade II with all consequential monetary benefits.

For Petitioner : Mr.V.Govardhanan
for M/s.Row and Reddy

For Respondents : Mr.K.Venkatramani,
Additional Advocate General
assisted by Mr.R.A.S.Senthilvel,
Additional Government Pleader

WEB COPY

ORDER

Challenging the order of the second respondent dated 10.12.2012 and for a consequential direction to the second respondent to issue an order of appointment to the petitioner appointing him as Police Constable Grade II with all consequential monetary benefits, the present writ petition has been filed.

2.The case of the petitioner is that he has responded to the Notification in 2012 for recruitment to the post of Grade II Police Constable in the Tamil Nadu Police Department. The petitioner was subjected to various modes of selection and he was found qualified in all the modes of selection viz., physical measurement test, endurance test, rope climbing, long jump, running etc., After having qualified in all the modes of selection, he was provisionally selected for appointment as Grade II Police constable on the basis of the results published by the Tamil Nadu Uniformed Service Recruitment Board, Chennai. All the selected candidates were directed to fill up the details in the Police Verification Roll Form. While filling up the details in the said Form in Column Nos.15, 16 and 18, the details of involvement in any criminal case should be furnished by the candidates.

3.According to the petitioner, because of the family quarrel, he was implicated in a criminal case falsely under various Sections of the Indian Penal Code. The charges alleged against the petitioner were not very serious in nature and in any event, the criminal case foisted against the petitioner had ended in acquittal on 15.10.2012. The Trial Court had acquitted the petitioner on the ground that the charges were not proved beyond reasonable doubt. As against the order passed by the Trial Court, the petitioner has filed Crl.R.C.No.1474 of 2013 stating that he ought to have been honourably acquitted since there was absolutely no evidence available on record for establishing the charges against him. This Court, vide order dated 28.11.2013 in the said Criminal Revision, has allowed the prayer of the petitioner herein by modifying the finding of the acquittal of the petitioner on benefit of doubt as that of honourable acquittal.

4.Since the petitioner was involved in a criminal case and he having failed to fill up the details regarding his involvement in the criminal case in the Police Verification Roll Form, he was ultimately denied employment as Grade II Police Constable. This was on the basis of the Tamil Nadu Special Police Subordinate Service Manual read with Government Orders issued on the subject matter.

5.Mr.Govardhanan, learned counsel appearing for the petitioner would submit that on the date when the petitioner was directed to fill up the Police Verification Roll Form in November 2012, he had already been acquitted of the criminal case and the queries raised in the Police Verification Roll Form only point out whether the person has been convicted or punished by the Criminal Court. Therefore, he was of the bonafide impression that there was no necessity to fill up any

information regarding the criminal complaint or the case which was pending against him earlier. Learned counsel for the petitioner further submitted that even otherwise, the criminal case had ended in acquittal, that too, this Court has converted the ordinary acquittal into one of honourable acquittal and therefore, the denial of employment on the said score cannot be countenanced in law. In support of his contention, learned counsel for the petitioner would rely on the decision of the Supreme Court in Avtar Singh Vs. Union of India and Others ((2016) 8 SCC 471). Learned counsel would particularly draw the attention of this Court to paragraphs 34, 35 and 36 of the order of the Supreme Court. The ratio laid down by the Supreme Court would point to the fact that consideration per se whether intentionally or unintentionally cannot be a basis for denial of employment or cancellation of appointment. The employer ought to take into consideration the nature of charges and the circumstances under which a candidate was placed while furnishing/non-furnishing of the information. In the instant case, admittedly, the facts are that at the time of filling up the details, the petitioner was acquitted in the criminal case and the said acquittal has also been held to be an honourable acquittal by this Court.

6.Mr.K.Venkataramani, learned Additional Advocate General appearing for the respondents would vehemently oppose the grant of relief to the petitioner on the ground that even on the matter of acquittal, the fact remained that the petitioner did not disclose the information of his involvement in criminal case.

7.This Court has given its anxious consideration to the rival submissions of the learned counsels. The charges which are framed against the petitioner were relating to the family quarrel and did not appear to be a serious one, to be taken note of, for the purpose of denying the employment to the petitioner. Even otherwise, the petitioner having been acquitted honourably cannot be denied the employment in view of his provisional selection for appointment to the post of Grade II Police Constable. The mere involvement in a criminal case cannot be used to deny the employment unless the employer appreciates the totality of the circumstances under which a person is involved in a criminal case. In many cases, the persons may get implicated or involved in a trivial matter, which assumed the character of criminality. Therefore, the yardstick has to be applied on the touchstone of facts and circumstances of each case and cannot be applied in a straight jacket formula.

8.In the upshot of the above discussion and the narrative, this Court is of the view that the impugned order dated 10.12.2012 is liable to be quashed and therefore, the same is quashed. The respondents are directed to grant appointment to

the petitioner to the post of Police Constable Grade II with all consequential and attendant benefits. It is also made clear that the petitioner is not entitled to wages for the period in question on the ground of "No work No pay". However, he is entitled to all other benefits like seniority and continuity of service etc., The said direction shall be complied with by the respondents within a period of two months from the date of receipt of a copy of this order.

9.The writ petition stands allowed on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mmi

To

1. The Director General of Police,
Kamarajar Salai, Chennai - 4.
2. The Superintendent of Police,
Kancheepuram District,
Kancheepuram.

+lcc to M/s.Row and Reddy, Advocate, S.R.No.50288

+lcc to the Government Pleader, S.R.No.50961

W.P.No.1578 of 2013

SKS (CO)
CA(08/08/2017)

सत्यमेव जयते

WEB COPY