



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 24.07.2017

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.A.[MD].Nos. 626, 627, 816 to 825 and 159 of 2014
and
all connected miscellaneous petitions

- 1.The Chairman,
Tamil Nadu Uniform Service Recruitment Board,
No.807, P.T.Lee Chengalvarrayar Maligai,
Anna Salai, Chennai - 02.
- 2.The Director General of Police,
Kamarajar Salai,
Chennai - 600 004.
- 3.The Superintendent of Police,
Virudhunagar District, Virudhunagar. ... Appellants in
W.A.Nos.626 &
627/2014

- 1.The State of Tamil Nadu,
Rep. By its Principal Secretary to Government,
Home Department, Fort St. George,
Chennai - 600 009.

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

- 3.The Tamil Nadu Uniformed Service Recruitment
Board,
represented by its Member Secretary,
P.T.Lee., Chengalvaraya Naicker Building,
No.807, 2nd Floor, Anna Salai,
Chennai - 2.



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

5.The Director General of Police,
Mylapore, Chennai - 4.

... Appellants in W.A.816/14

WEB COPY

1.The State of Tamil Nadu represented
by the Director General of Police,
Chennai.

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

... Appellants in W.A.817/14

1.The Tamil Nadu Uniformed Service Recruitment
Board, represented by its Chairman,
P.T.Lee., Chengalvaraya Naicker Building,
No.807, 2nd Floor, Anna Salai, Chennai - 2.

2.The Director General of Police,
Mylapore, Chennai - 4.

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

... Appellants in W.A.818/14

1.The Tamil Nadu Uniformed Service Recruitment
Board, represented by its Chairman,
P.T.Lee., Chengalvaraya Naicker Building,
No.807, 2nd Floor, Anna Salai, Chennai - 2.

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

... Appellants in W.A.819/14

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

2.The Tamil Nadu Uniformed Service Recruitment
Board, represented by its Chairman,
P.T.Lee., Chengalvaraya Naicker Building,
No.807, 2nd Floor, Anna Salai, Chennai - 2.

<https://hccs.courts.madras.gov.in/cases>
3.The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

... Appellants in W.A.820/14



1.The Tamil Nadu Uniformed Service Recruitment Board,

represented by its Member Secretary,
P.T.Lee., Chengalvaraya Naicker Building,
No.807, 2nd Floor, Anna Salai,
Chennai - 2.

2.The Director General of Police,
Mylapore, Chennai - 4.

3.The Superintendent of Police,
Tirunelveli District, Tirunelveli - 2.

4.The Inspector of Police,
All Women Police Station,
Alangulam,
Tirunelveli District.

... Appellants in W.A.821/14

1.The Tamil Nadu Uniformed Service Recruitment Board,
represented by its Member Secretary,
No.807, 2nd Floor, Anna Salai,
Chennai - 2.

2.The Superintendent of Police,
Tirunelveli District, Tirunelveli - 2.

3.The Inspector of Police,
Koodankulam Police Station,
Koodankulam,
Tirunelveli District.

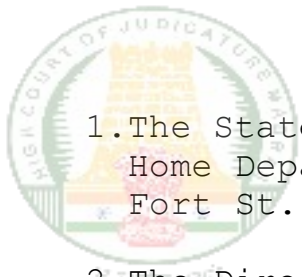
... Appellants in W.A.822/14

1.The Director General of Police,
Mylapore, Chennai - 4.

2.The Chairman,
The Tamil Nadu Uniformed Service Recruitment Board, Chennai - 2.

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

... Appellants in W.A.823/14



1.The State of Tamil Nadu rep. By its
Home Department,
Fort St. George, Chennai.

2.The Director General of Police,
Office of the Director General of Police,
Chennai - 600 004.

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

4.The Superintendent of Police,
Office of the Superintendent of Police,
Tirunelveli District,
Tirunelveli.

... Appellants in W.A.824/14

1.The Director General of Police,
Chennai.

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

3.The Inspector of Police,
Veeravanallur Police Station,
Veeravanallur.

... Appellants in W.A.825/14

1.The Director General of Police,
Kamarajar Salail,
Chennai - 04.

2.The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Chennai - 02.

3.The Commissioner of Police,
Madurai City,
Madurai.

.... Appellants in W.A.159/14

Vs.

P.Anantha Raja

... Respondent in W.A.626/14

P.Prabakaran

... Respondent in W.A.627/14

R.Jeyaram

... Respondent in W.A.816/14

V.Kaliraj

... Respondent in W.A.817/14

S.Sudalai Pandian

... Respondent in W.A.818/14

R.Ganesa Perumal

... Respondent in W.A.819/14

<https://hcmr.mca.gov.in/hcscservices/>

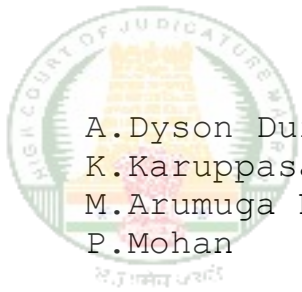
V.Marikumar

... Respondent in W.A.820/14

N.Jagadeesh

... Respondent in W.A.821/14

... Respondent in W.A.822/14



A.Dyson Durai
K.Karuppasamy Pandian
M.Arumuga Nainar
P.Mohan

... Respondent in W.A.823/14
... Respondent in W.A.824/14
... Respondent in W.A.825/14
... Respondent in W.A.159/14

COMMON PRAYER : Writ Appeals are filed under Clause 15 of the Letters Patent, to set aside the order dated 26.03.2013 passed in WP(MD)Nos.2784, 3056, 2203, 2326, 2299, 2309, 2530, 2544, 2913, 3051, 3448, 3807 of 2013 respectively and Order dated 16.04.2013 made in W.P.(MD) No.4188 of 2013 on the file of this Court.

Prayer in WP(MD). 2784/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus or any other appropriate writ or order or direction in the nature of writ and call for the records the order in Na.Ka.No.A2(1)/26187/2012, dated 22.01.2013 issued by the 3rd respondent and quash the same and further direct the respondents to recruit the petitioner as Grade II, Constable of Tamilnadu police as per application No. 2504569 and thus render justice.

Prayer in WP(MD). 3056/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the impugned order passed by the 3rd Respondent in his proceedings in Na.Ka.No. A-2(1)/26187/2012 dated 22.01.2013 and quash the same as illegal and consequently direct the respondents to appoint the petitioner as Grade II Police Constable in the Common Recruitment of Grade II Police Constables/Grade II Jail Warders/Firemen 2012 and to pass such further or other orders.

Prayer in WP(MD). 2203/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the 5th Respondent dated 12.12.2012 in Na.Ka.No.A4/30493/2012 and quash the same and consequently direct the Respondents to appoint the Petitioner to the post of Grade - II Police Constable pursuant to the recruitment process of the year 2012 held by 2nd Respondent with all other consequential and attendant benefits.

Prayer in WP(MD). 2326/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in Na.Ka.No. A4/30493/2012 dated 14.12.2012, and quash the same and consequently direct the 1st respondent herein, to appoint the petitioner to the post of Grade II Police Constable, or if the above post was filled up by the authorities, to which he



was selected, by this time, the 1st respondent may be directed to appoint the petitioner, as and when vacancy arises for the above said post or any post carrying the same scale of pay which requires the same qualification, whichever is earlier.

Prayer in WP(MD). 2299/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the Impugned Proceedings issued by the 3rd Respondent herein in Na.Ka.No.A4/30493/2012 dated 12.12.2012, quash the same and further direct the respondents herein to appoint the petitioner as Grade II Police within a reasonable time as may be stipulated by this Honourable Court.

Prayer in WP(MD). 2309/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the files of the 2nd respondent pertaining to its proceedings in Na.Ka.No.A4/30493/12 dated 12.12.2012 and to quash the same and consequently direct the respondents to appoint the petitioner as Grade II Police Constable within the time frame that maybe stipulated by this Honourable Court.

Prayer in WP(MD). 2530/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 3rd respondent in connection with the impugned order of rejection to the post of Grade II Police Constable for the year 2012 vide his proceedings issued in Na.Ka.No.A4/30493/2012 dated 12.12.2012 and quash the same and consequently direct the respondents to consider the petitioner's case for appointment to the post of Grade II Police Constable for the year 2012 along with his batch mates within the time limit that may be stipulated by this Honourable Court.

Prayer in WP(MD). 2544/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 3rd respondent in Na.Ka.No.A4/30493/2012, dated 21.01.2013, and quash the same, and consequently direct the respondents to recruit the petitioner for the post of Grade II Police Constable in the vacancy notified by the 1st respondent for the year 2012.

<https://hccourts.mv.in/wps/wcm/connect/2913/2013> : WP(MD). 2913/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of



Certiorarified Mandamus or any other appropriate writ, order or direction, particularly in the nature of Writ, calling for the records pertaining to the impugned order passed by the 2nd Respondent in Na.Ka.No.A4/30493/2012, dated 12.12.2012, quash the same and direct the respondents to select the petitioner to the post of Grade II police Constables/Grade II jail wardens and Firemen for the year 2012.

Prayer in WP(MD). 3051/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Impugned Order in Na.Ka.No.A4/30493/2012 dated 12.12.2012 on the file of the Respondent no.3 and quash the same as illegal and consequently direct the Respondents to appoint the Petitioner as the Grade II Constable of Police.

Prayer in WP(MD). 3448/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, in the nature of writ for the records connected with the impugned order in Na.Ka.No. A4/30493/2012 dated 12.12.2012 , pending on the file of the 4th respondent and quash the same as illegal, consequenlty to direct the respondents to appoint the petitioner as second grade constable (AR) and pass such further or other orders.

Prayer in WP(MD). 3807/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned order of the 2nd respondent in proceedings Na.ka.No. A4/30493/2012, dated 12.12.2102 and quash the same and pass such further or other orders.

Prayer in WP(MD). 4188/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the Respondents to appoint the petitioner (Register No. 2401363) as II Grade Constable of Police in the Tamil Nadu Police Department for the year 2012 selection year with consequential benefit and pass such further or other orders as this Honourable Court may deem fit and proper in the circumstances of the case and thus render justice.

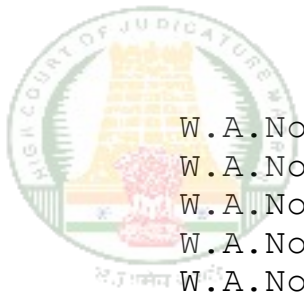
For Appellants : Mr.T.S.Md.Mohideen
Additional Government Pleader

For Respondent in

<https://hcservices.mca.gov.in/hcservices> : Mr.S.Baskar Mathuram

W.A.No.627/2014 : Mr.V.Muniasamy

W.A.No.816/2014 : Mr.N.Dilip Kumar



W.A.No.817/2014 : Mr.P.Subburaj
W.A.No.819/2014 : Mr.S.C.Herold Singh
W.A.No.821/2014 : Mr.S.S.Desigan
W.A.No.822/2014 : Mrs.J.Anandhavalli
W.A.No.823/2014 & 159/2014 : Mr.R.Venkatesan
W.A.No.824/2014 : Mr.R.Alagumani

For Respondents
in W.A.Nos.818,820
and 825/2014 : No Appearance

COMMON JUDGMENT

[Judgment of the Court was delivered by G.R.SWAMINATHAN, J.]

These writ appeals have been filed questioning the common order dated 26.03.2013 passed in WP(MD)No.2784, 3056, 2203, 2326, 2299,2309, 2530, 2544. 2913, 3051, 3448, 3807 of 2013 respectively and dated 16.04.2013 made in W.P.(MD) No.4188 of 2013 on the file of this Court.

2.The learned single Judge was dealing with a batch of cases filed by the individuals of those who were not selected as Grade II Police Constable even though they were successful in the written examination and also in the physical test. The cases were classified under five heads. The writ petitioners herein fall under the second category i.e. selection was denied to them on the ground that they faced criminal prosecution and also that they failed to disclose their involvement in the criminal cases either in the application or during verification. The learned Judge allowed the writ petitions filed by the respondents herein and a direction was issued to the police to give appointment orders to them on condition that the appointment would be subject to the result of the decision of the Larger Bench of the Supreme Court. Aggrieved by the said order, these intra court appeals have been filed.

3.The Larger Bench of Supreme Court in the decision referred in 2016 (8) SCC 471 *Avtar Singh Vs. Union of India and Others* has answered the reference in para 38. The same reads as under:

"1.Information given to the employer by a candidate as to conviction, acquittal or arrest, or pendency of a criminal case, whether before or after entering into service must be true and there should be no suppression or false mention of required information.

2.While passing order of termination of services or cancellation of candidature for giving false



information, the employer may take notice of special circumstances of the case, if any, while giving such information.

3. The employer shall take into consideration the Government orders/instructions/rules, applicable to the employee, at the time of taking the decision.

4. In case there is suppression or false information of involvement in a criminal case where conviction or acquittal had already been recorded before filling of the application/verification form and such fact later comes to knowledge of employer, any of the following recourse appropriate to the case may be adopted : -

(a) 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.

(b) Where conviction has been recorded in case which is not trivial in nature, employer may cancel candidature or terminate services of the employee.

(c) If acquittal had already been recorded in a case involving moral turpitude or offence of heinous/serious nature, on technical ground and it is not a case of clean acquittal, or benefit of reasonable doubt has been given, the employer may consider all relevant facts available as to antecedents, and may take appropriate decision as to the continuance of the employee.

5. In a case where the employee has made declaration truthfully of a concluded criminal case, the employer still has the right to consider antecedents, and cannot be compelled to appoint the candidate.

6. In case when fact has been truthfully declared in character verification form regarding pendency of a criminal case of trivial nature, employer, in facts and circumstances of the case, in its discretion may appoint the candidate subject to decision of such case.

7. In a case of deliberate suppression of fact with respect to multiple pending cases such false



information by itself will assume significance and an employer may pass appropriate order cancelling candidature or terminating services as appointment of a person against whom multiple criminal cases were pending may not be proper.

WEB COPY

8.If criminal case was pending but not known to the candidate at the time of filling the form, still it may have adverse impact and the appointing authority would take decision after considering the seriousness of the crime.

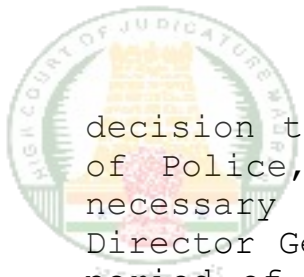
9.In case the employee is confirmed in service, holding Departmental enquiry would be necessary before passing order of termination/removal or dismissal on the ground of suppression or submitting false information in verification form.

10.For determining suppression or false information attestation/verification form has to be specific, not vague. Only such information which was required to be specifically mentioned has to be disclosed. If information not asked for but is relevant comes to knowledge of the employer the same can be considered in an objective manner while addressing the question of fitness. However, in such cases action cannot be taken on basis of suppression or submitting false information as to a fact which was not even asked for.

11.Before a person is held guilty of suppressio veri or suggestio falsi, knowledge of the fact must be attributable to him

4.The said decision of the Hon'ble Supreme Court of India was followed in a batch of cases in W.P.Nos.1241 of 2015 and etc. and the Division Bench of the Madras High Court (to which one of us Mr.Justice K.K.SASIDHARAN was a party) passed an order dated 22 February 2017 enabling the employer to exercise their discretion to terminate or otherwise to condone the omission or false report. The authorities were directed to examine the matter afresh and take decision one way or other. The Government of Pudhucherry had constituted a Screening Committee and the matter was directed to be placed before the Screening Committee.

5.Following the said decision, the present appeals are also disposed of. The Director General of Police, Mylapore, Chennai should examine the cases of the writ petitioners herein and take a decision one way or the other. It is open to him to condone the lapses attributed to the writ petitioners. In view of the



decision to remit the matter to the file of the Director General of Police, Chennai for fresh consideration, we consider it not necessary to deal with the facts of individual cases. The Director General of Police, Chennai shall take a decision within a period of two months from the date of receipt of a copy of this order.

6. These Writ Appeals are disposed of with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

/True Copy/

Sub-Assistant Registrar

To

1. The Principal Secretary to Government,
State of Tamil Nadu,
Home Department, Fort St. George,
Chennai - 600 009.
2. The Chairman,
Tamil Nadu Uniform Service Recruitment Board,
No. 807, P.T. Lee Chengalvarrayar Maligai,
Anna Salai, Chennai - 02.
3. The Director General of Police,
Kamarajar Salai,
Chennai - 600 004.
4. The Superintendent of Police,
Virudhunagar District, Virudhunagar.
5. The Superintendent of Police,
Tirunelveli District, Tirunelveli.
6. The Inspector of Police,
All Women Police Station,
Alangulam, Tirunelveli District.
7. The Inspector of Police,
Koodankulam Police Station,
Tirunelveli District



8.The Inspector of Police,
Veeravanallur Police Station,
Veeravanallur

9.The Commissioner of Police,
Madurai City, Madurai

+2ccs to Mr.R.Venkatesan, Advocate, SR.Nos.67468 and 67446

+One cc to Mr.R.Alagumani, Advocate, SR.No.67869

+One cc to M/s.J.Anandhavalli, Advocate, SR.No.67719

+One cc to Mr.P.Subbaraj, Advocate, SR.No.67549

+One cc to Mr.N.Dilipkumar, Advocate, SR.No.67428

+One cc to Mr.V.Muniasamy, Advocate, SR.No.67645

+1 The Special Government Pleader, SR.Nos.67974, 67976, 67982,
67985, 67983, 67984, 67973, 67972, 67979 and 67978

Arul/skm
RL/18C/12P/SKN/RSK/SAR1/22/8/2017

Order made in
W.A.[MD].Nos. 626, 627,
816 to 825 and 159 of 2014

24.07.2017