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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 13.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A.[MD].No. 267 to 269 of 2017

and

C.M.P.(MD) Nos.2724 to 2728 of 2017

1. The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai.

2. The Superintendent of Police,
Thanjavur-613 010.

... Appellants
in WA(MD) Nos.267 & 268/17

1. The Chairman,
Tamil Nadu Uniform Service Recruitment Board,
Chengalvarayanaicker Maligai,
Annasalai, Chennai.

2. The Director General of Police,
Law and Order, Tamil Nadu,
Dr.Radhakrishnan Salai,
Mylapore, Chennai.

3. The Superintendent of Police,
Thanjavur.

... Appellant in WA(MD) No.269/17
Vs.

1.M.Arun	... Respondent in W.A.267/17
2.D.Robert Raj	... Respondent in W.A.268/17
3.G.Manikandan	... Respondent in W.A.269/17

PRAYER : Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 16.04.2013 passed in WP(MD) No.4732, 4733 and 5581 of 2013 respectively on the file of this Court.

Prayer in WP(MD). 4732/ 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 in connection with the impugned order passed by the 2nd respondent in Na.Ka.No.A2/11666/2012 dated 18.02.2013 and quash the same and further direct the respondents to appoint the petitioner as Grade - II Police constable within a reasonable time.



Prayer in WP(MD). 4733/ 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 in connection with the impugned order passed by the 2nd respondent in Na.Ka.No.A2/11666/2012 dated 18.02.2013 and quash the same and further direct the respondents to appoint the petitioner as Grade - II Police constable within a reasonable time.

Prayer in WP(MD). 5581/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, in Na.Ka.No.A2/11666/2012 dated 18.02.2013 issued by the 3rd respondent and quash the same and consequently direct the 2nd respondent to consider the petitioner for appointment to the post of Grade - II Police Constable - 2012 on the basis of the selection made pursuant to the notification issued by the 1st respondent in Advertisement No.112 in the year 2012.

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

For Respondent : Mr.S.Raja Prabhu in W.A.268/2017
Mr.A.Rajaram in W.A.269/2017

COMMO N JUDGMENT

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

These writ appeals have been filed questioning the common order dated 16 April 2013 made in W.P.(MD) No.16771 of 2012 etc. batch.

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 subjected to the result of the decision of the Larger Bench of the Supreme Court. Aggrieved by the said order, this intra court appeals have been

3.The Larger Bench of Supreme Court in the decision referred



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.

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 : -

(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.



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.

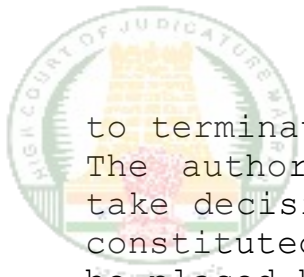
8. If criminal case was pending but not known to the candidate at the time of filling the form, still it may have adverse impact and the appointing authority would take decision after considering the seriousness of the crime.

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 suppression 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 <https://hccases.ecourts.gov.in/cases> 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.

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5. Following the said decision, the present appeals are also disposed of. The Director General of Police, Mylapore, Chennai shall consider the cases of the writ petitioners herein and take a decision one way or the other. It is open to the first appellant herein to condone the lapses attributed to the writ petitioners. In view of the decision to remit the matter to the file of the first appellant for fresh consideration, we consider it not necessary to deal with the facts of individual cases. The first appellant shall take a decision within a period of two months from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To

1. The Director General of Police,
Dr. Radhakrishnan Salai,
Mylapore, Chennai.
2. The Superintendent of Police,
Thanjavur-613 010.
3. The Chairman,
Tamil Nadu Uniform Service Recruitment Board,
Chengalvarayanaicker Maligai,
Annasalai, Chennai.

+1cc to The Special Government Pleader in SR.No.65645,65646,65647
+1cc to Mr.A.Rajaram, Advocate in SR.No.65199

arul/skm

AE/MR/KKR/SAR1/27.07.2017/5P/6C

**W.A. [MD].No. 267 to 269 of 2017
13.07.2017**