



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2017

CORAM:

WEB COPY

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P (MD) No.7416 of 2014

and

M.P. (MD) .No.1 of 2014

Santhanakumar

... Petitioner

vs.

1. The Chariman,
Tamil Nadu Uniform Service-
Recruitment Board,
Chennai.
2. The Director General of Police,
Kamarajar Salai,
Mylapore,
Chennai-4.
3. The Superintendent of Police,
Kanyakumari District,
Nagercoil.

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to call for the records relating to the impugned order passed by the 3rd respondent in his proceedings in C.No.3/42000/2013, dated 14.02.2014 and quash the same as illegal and consequently, directing 3rd respondent to appoint the petitioner in Tamil Nadu Special Police Youth Brigade 2013, batch with confirmity of the successful selection of the petitioner.

For Petitioner : Mr.K.Suresh Kumar

For Respondents : Mr.S.Kumar
Additional Government Pleader

ORDER

The Writ Petition has been filed for issuance of a writ of certiorarified mandamus, to call for the records relating to the impugned order passed by the 3rd respondent in his proceedings in C.No.3/42000/2013, dated 14.02.2014 and quash the same as illegal



and consequently, directing the 3rd respondent to appoint the petitioner in Tamil Nadu Special Police Youth Brigade 2013-batch with conformity of the successful selection of the petitioner.

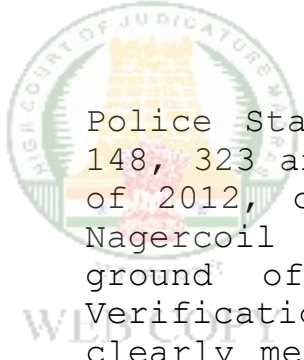
2. The respondents have called for applications for Recruitment to the post of Tamil Nadu Special Police Youth Brigade in the Tamil Nadu Police Department for the year 2013 and the petitioner has submitted an application to the said post. He has passed Physical eligibility examination and written examination. After completing the selection process, he has also given a provisional selection order by the third respondent by his proceedings dated 15.01.2014 in C.No.3/42000/2013. Thereafter, the third respondent called for medical examination and he has also qualified in the medical test and eagerly waiting for the communication from the respondent for the said employment. But to his dismay, the respondent has not sent any letter and he was not allowed to enrol in the training programme. Hence, he filed a Writ of Mandamus in W.P.(MD).No.2389 of 2014, before this Court to direct the respondent to appoint the petitioner in Tamil Nadu Special Police Youth Brigade 2013 batch. Later he withdrew the same, since the impugned order in C.No.3/42000/2013 was passed on 14.02.2014, against which the present writ petition has been filed.

3. In the counter affidavit filed by the third respondent, it is stated that though the petitioner was provisionally selected, the second respondent in his memo in RC.6757/Rect1(1)/14, dated 14.01.2014 has directed the police verification regarding the character, antecedents and Medical Examination before issuing the appointment orders. The second respondent has also issued instructions wherein the persons, who came under the below said category alone will be considered for appointment;

- a) persons acquitted honourably prior to Police Verification
- b) persons acquitted under P.O.Act
- c) persons involved in criminal case and name deleted from charge sheet prior to Police Verification
- d) persons involved in criminal case and case treated as "mistake of fact"
- e) dealt under Juvenile Justice act (even conviction is not a bar for appointment)

provided that above type of candidates who are considered for appointment should not suppress the fact regarding the involvement of criminal case and if they have suppressed, they will not be provided with any appointment.

<https://hcservices.ecourts.gov.in/hcservices> On such police verification, it was found that the petitioner was involved in an incident, where he was arrayed as accused in Crime No.1290 of 2011, on the file of the Anjugramam



Police Station, for the offences punishable under Sections 147, 148, 323 and 324 IPC. The said case was taken on file in C.C.No.43 of 2012, on the file of the learned Judicial Magistrate No.III, Nagercoil and after trial, the petitioner was acquitted on the ground of benefit of doubt on 05.02.2014. In the Police Verification Roll, the Inspector of Police, Suchindrum Circle has clearly mentioned the petitioner's name as Shibu @ Santhanakumar, S/o.Mayandi @ Sorris. Hence, the contention raised by the petitioner that without aware of his original name, his neighbour gave his name as Shibu cannot be taken into account.

5. As per the guidelines issued, the petitioner should not have suppressed any fact regarding the involvement of criminal case. Hence, it is seen from the original application, wherein in columns 15, 16 and 18 of the Police Verification Form, nothing was disclosed by the said petitioner regarding the details of the criminal case, he involved and it cannot be construed that he was either honourably acquitted or the case was treated as mistake of fact, but only on the benefit of doubt, he was acquitted.

6. The learned Additional Government Pleader appearing on behalf of the respondent would contend that the department has rightly rejected such candidates to the uniformed service, where discipline and dignity shall be maintained. The principal function of the said Police Youth Brigade is only to create a special task force and to include healthy police personnel in duty. All these persons, who are not innocent and suppressed the fact cannot be given leniency to be included in the said employment and he further submitted that the writ petition has to be dismissed.

7. Based on the above contentions and also the materials perused, this Court is of the opinion that the petitioner has not proved his innocence beyond doubt. The contentions raised by the learned counsel for the petitioner that the case against the petitioner is a fabricated one was not proved by the petitioner by producing any evidence before the Trial Court and the Trial Court acquitted him only on the ground of benefit of doubt. If really he was innocent, he ought to have challenged the said order by way of filing petition before the concerned forum. He has not done so. Hence, the order of the learned Judicial Magistrate has become final. Hence, the finding of the said police personnel is found to be true and since the petitioner has not proved his innocence before the said Court, this Court is of the opinion that this writ petition is not maintainable and the petitioner is not eligible to be appointed in the said Tamil Nadu Special Police Youth Brigade 2013, batch. The further submission made by the writ petitioner that he could be given liberty to approach, when there is any future vacancy arises, can not be considered. Once a black mark is ~~service records~~ cannot be removed from the eyes of law. Hence, the said request of the writ petitioner is rejected and accordingly, the writ petition fails.



8. In the result, the Writ Petition is dismissed. Consequently, connected miscellaneous petition is also dismissed. No Costs.

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Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Chariman,
Tamil Nadu Uniform Service- Recruitment Board,
Chennai.

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

3. The Superintendent of Police,
Kanyakumari District,
Nagercoil.

+ 1 cc TO Mr.K.Suresh Kumar , Advocate in SR No. 91105
+ 1 cc TO The Special Government Pleader in SR No. 91121

PJL

AE/SV MMS/SAR2/08.01.2018/4P/6C

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