



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2017

Coram:

The Hon'ble Mr. Justice T.S. Sivagnanam
and
The Hon'ble Mr. Justice P. Velmurugan

Review Application (MD) No.154 of 2017
in
WA (MD) No.27/2017
in
WP (MD) No.3514 /2013

B. Surendran

... Review Petitioner/
Respondent/Writ Petitioner

Vs.

1. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
No.807, P.T. Lee. Chengalvaraya Naicker Maaligai,
Anna Salai, Chennai - 600 002.

2. The Director General of Police,
Chennai.

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

... Respondents/Appellants/
Respondents

Review Application, filed under Order 47 Rules 1 and 2 read with 114 of C.P.C. to review the judgment, dated 21.03.2017, passed in W.A.(MD) No.27 of 2017.

Prayer in WA (MD). 27/ 2017 :

Preferred this Memorandum of Grounds of Writ Appeal before this Honourable High Court as against the order dated 26/03/2013 made in WP(MD).No.3514 of 2013 on the file of this Honourable Court.

Prayer in WP (MD). 3514/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st respondent to select the petitioner herein, who passed in the Written Examination, Physical and Medical Test for the post of TSP for the year 2012 under Advertisement No.112 given by the 1st Respondent.



For Review Petitioner : Mr. D. Ghandiraj
For Respondents : Mr. V.R. Shanmunathan
Special Government Pleader (CS)

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O R D E R

(Order of the Court was made by T.S.Sivagnanam. J.,)

Heard Mr. D. Ghandiraj, the learned counsel appearing for the petitioner, and Mr.V.R.Shanmunathan, the learned Special Government Pleader for the respondents. The Original Files were produced by the learned Special Government Pleader, as per the direction in our order, dated 08.11.2017, which has been perused by the learned counsel for the petitioner.

2. This Review Application has been filed, to review the judgment, dated 21.03.2017, passed in W.A.(MD) No.27 of 2017.

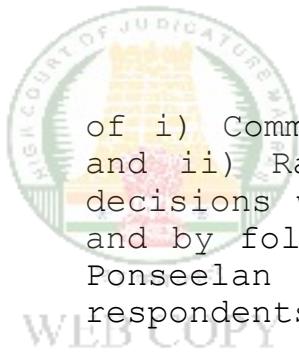
3. The said Writ Appeal was filed by the respondents, challenging the order passed in W.P.(MD) No.3514 of 2013, dated 26.03.2013. The review applicant/writ petitioner filed the said Writ Petition to direct the first respondent herein to select him to the post of Police Constable in the Tamil Nadu Police Service for the year, 2012, as he has passed the written examination, physical and medical tests.

4. The question, which arose for consideration before us in the Writ Appeal was, whether there was non-disclosure of the writ petitioner's arrest. In the application form, there are certain questions, which have been asked to the candidates, with regard to criminal antecedents, of which, question Nos,15, 16 and 18 are relevant. It is not in dispute that, the writ petitioner was arrested on 14.10.2011, and while submitting the application for the said post on 17.11.2012, the writ petitioner did not disclose the arrest by answering the question No.16 in the negative. We took into consideration the decision of the Larger Bench of this Court, in the case of J. Alex Ponseelan Vs. the Director General of Police, Tamil Nadu, in W.P.(MD) No.8345 of 2011 etc., (batch) and held that, non disclosure of arrest itself, is fatal to the case of the writ petitioner, and allowed the Appeal filed by the respondents.

5. The learned counsel appearing for the review applicant strenuously contended that, no criminal case was registered against the petitioner, and to establish the same, the learned counsel referred to the statement recorded by the Investigating Officer from the *de facto* complainant and others, and submitted that the writ petitioner, being an innocent villager, cannot be expected to give answer to question No.16 in an affirmative manner, except to say no.

<https://hcservices.ecourts.gov.in/hcservices/>

6. The learned counsel appearing for the review applicant relied upon the decision of the Hon'ble Supreme Court, in the case



of i) Commissioner of Police Vs. Sandeep Kumar [(2011) 4 SCC 644] and ii) Ram Kumar Vs. State of U.P. [(2011) 6 CTC 440]. These decisions were, in fact, cited before us, were considered the same, and by following the Larger Bench decision, in the case of J. Alex Ponseelan (supra), we have allowed the Writ Appeal filed by the respondents.

7. The contention put forth by the learned counsel appearing for the writ petitioner that, no criminal case was registered against the writ petitioner. In our considered view, cannot be a reason for reviewing the judgment, particularly, on account of the finding rendered by us in paragraph No.15, which reads as follows:-

"In the case on hand, the writ petitioner has answered 'No', for question Nos.15, 16 and 18. That would mean that he has not been concerned in any criminal case, not been arrested or convicted and sentenced to undergo imprisonment or pay a fine in any criminal or other offence and no civil or criminal case is pending against him. But, the fact remains that the writ petitioner was arrested and was in custody as on 14.10.2011. Admittedly, the application was filed for appointment to the said post on 17.11.2012, and on the said date, the petitioner ought to have disclosed his arrest and detention, as there is a specific question in the application form, viz., Question No.16. Thus, it is evident that the writ petitioner has failed to disclose the details of his arrest, which was much prior to the date of submitting his application. Therefore, by applying the law laid down by the Hon'ble Full Bench of this Court, in Manikandan's case, which was reiterated by the Honourable Larger Bench of this Court in Alex Ponseelan's case, the writ petitioner is not entitled to the relief sought for and therefore, the writ petition is liable to be dismissed."

8. Thus, the issues pointed out by the review applicant are not grounds to review the impugned judgment, nor the writ petitioner is able to point out any error apparent on the face of the judgment. Thus, no grounds have been made out by the review applicant to entertain this Review Application.

9. Accordingly, this Review Application is dismissed. No costs.

Sd/-
Assistant Registrar (CSIII)



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To

1. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
No.807, P.T. Lee. Chengalvaraya Naicker Maaligai,
Anna Salai, Chennai - 600 002.
2. The Director General of Police,
Chennai.
3. The District Superintendent of Police,
Madurai District Madurai.

+One cc to Mr.D.Gandhiraj, Advocate, SR.No.90836

sd

RL/5C/4P/KK/SAR1/2/1/2018

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(MD) No.154 of 2017

30.11.2017