



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.01.2017

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.9398 of 2013
and
M.P(MD)No.1 of 2013

S.Chellapandian

... Petitioner

vs.

1)The Director General of Police,
Chennai.

2)The Superintendent of Police,
Madurai District,
Madurai.

... Respondents

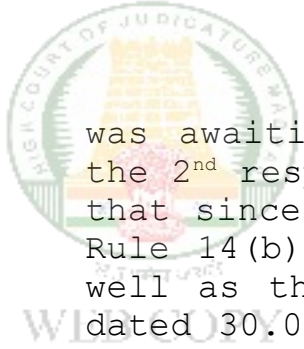
Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in Na.Ka.No.P.1/19500/2012 dated 24.12.2012 passed by the 2nd respondent, quash the same and further directing the 1st respondent to grant appointment to the petitioner for the post of police constable Grade II.

For Petitioner	: Mr.A.Jayaramachandran
For Respondents	: Mr.V.Muruganandam Additional Government Pleader

ORDER

The prayer in this writ petition is for a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in Na.Ka.No.P.1/19500/2012, dated 24.12.2012 of the 2nd respondent, quash the same and further directing the 1st respondent to grant appointment to the petitioner for the post of police constable Grade II.

2.The petitioner had applied for recruitment to the post of Grade-II Police Constable for the year 2012. The petitioner had attended the written test as well as the physical efficiency test and in both the tests, he became successful and therefore, he was called for certificate verification by the respondents on 03.11.2012. After certificate verification when the petitioner



was awaiting for orders selecting him for the said recruitment, the 2nd respondent passed the impugned order on 24.12.2012, stating that since the petitioner had involved in a criminal case, as per Rule 14(b) of the Tamil Nadu Police Subordinate Service Rules as well as the Government Order No.101, Home (Police 9) Department, dated 30.01.2003, the petitioner's candidature cannot be accepted for the recruitment to the post of Grade-II Police Constable and accordingly it was rejected. Challenging the same, the petitioner has filed this writ petition.

3. Heard both sides.

4. The learned counsel for the petitioner would invite Rule 14 (b) of the said rules which reads thus:-

'No person shall be eligible for appointment to the service by direct recruitment unless he satisfies the appointing authority that he has not involved in any criminal case before police verification.

Explanation -1 : A person who is acquitted or discharged on benefit of doubt or due to the fact that complainant turned hostile shall be treated as person involved in a criminal case.

Explanation -2 : A person involved in a criminal case at the time of police verification and the case yet to be disposed of and subsequently ended in honorable acquittal or treated as mistake of fact shall be treated as non involvement in a criminal case and he can claim right for appointment only by participating in the next recruitment.'

5. As per Explanation-2 of Rule 14(b), if a person involved in a criminal case at the time of police verification and the case was not yet disposed of, however, subsequently ended in honorable acquittal or treated as mistake of fact, then, it shall be treated as non involvement in a criminal case and in that eventuality, such candidate can be considered for appointment only by participating in the next recruitment. By relying upon the said Explanation-2, learned counsel for the petitioner would submit that in so far as the criminal case against the petitioner is concerned, it was ended in acquittal by the orders of the trial Court dated 28.11.2012. However, the said acquittal was made pursuant to the benefit of doubt, as the prosecution had not proved the case beyond reasonable doubt. Only as against the said findings given by the trial Court acquitting the petitioner by giving him the benefit of doubt, the petitioner had preferred Crl.R.C(MD)No.619 of 2012 before this Court and the same was disposed of by this Court on 14.12.2012, wherein, the learned Judge has passed the following order:-



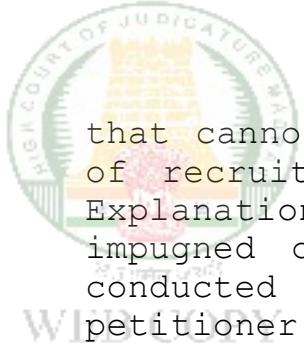
and consequently the Trial Court has come to a consequent conclusion that the prosecution has not proved the charges framed against the petitioner/Accused under Sections 294(b) and 323(2 counts) of I.P.C., and Section 3 of the Tamilnadu Women Prohibition of Harassment Act and acquitted the petitioner/Accused giving him the 'Benefit of Doubt', this Court opines that the said acquittal of the petitioner/Accused giving him the 'Benefit of Doubt' can be modified to one of 'Honorable Acquittal'. Viewed in that perspective, the Criminal Revision Petition is allowed. The finding rendered by the Trial Court in so far as the Revision Petitioner/Accused is concerned, that he is acquitted on 'Benefit of Doubt' is modified to the effect that he shall stand acquitted Honorably.''

6.The learned counsel for the petitioner submits that in view of the honorable acquittal given by this Court in the judgement referred to above, the petitioner would squarely falls under the category of Explanation-2 to Rule 14(b) cited supra and therefore, he should have been considered for the recruitment, for which, he became eligible, as he has successfully completed written test and physical efficiency test. Therefore, the learned counsel for the petitioner submits that the impugned order is liable to be interfered with.

7.Per contra, learned Additional Government Pleader appearing for the respondents submits that no doubt Explanation-2 of the said Rule has given the benefit to the candidates who have subsequently been acquitted honorably, that is after the date of police verification, then, it can be treated as non involvement of the case and only in that eventuality, those candidates can be considered for the next recruitment alone, if the candidate participated afresh. Therefore, even if the benefit provided under the said Explanation-2 is extended to the petitioner, he shall not be eligible to be considered for the present recruitment and therefore, what has been stated in the impugned order is fully justified.

8.This Court has considered the rival submissions made by the learned counsel for both parties.

9.As rightly pointed out by the learned Additional Government Pleader, Explanation-2 to Rule 14(b) of the said Rules, has given only a leverage to those who have been subsequently acquitted honorably, then, their candidatures can be considered only for the next recruitment which means, they have to apply for the next recruitment and if they are otherwise become qualified by successfully taking part in the recruitment process including the written test and physical efficiency test, then their candidature can be accepted. In other words, merely because there was a criminal case at one point of time and subsequently the person has got acquitted honorably from the said criminal case,



that cannot be a permanent stigma in their life for consideration of recruitment to the police service. This is the import of Explanation-2 to Rule 14(b). Here, in the case on hand, the impugned order dated 24.12.2012 refers the police verification conducted by the Inspector concerned on 06.12.2012. Though the petitioner was originally acquitted by the trial Court on 28.11.2012, he was not acquitted honorably. However, only by way of subsequent Criminal Revision Petition at the intervention of this Court by order dated 14.12.2012, the petitioner got acquitted by way of honorable acquittal. Therefore, admittedly, eight days after the police verification was completed, the petitioner was acquitted honorably and therefore, the benefit if at all, given under Explanation-2 to the said rules, is to be extended to the petitioner, it can be extended to the petitioner only for the purpose of next recruitment and not for the present recruitment for which, the impugned order has been passed.

10. In view of the said facts and circumstances, this Court is of the considered view that the impugned order rejecting the petitioner's candidature for the present recruitment for which he was called for certificate verification, can very well be sustained and therefore, the said impugned order requires no interference from this Court. Accordingly, this Writ Petition fails. However, in view of the subsequent honorable acquittal made on 14.12.2012, by the orders of this Court, the petitioner's candidature can be considered for the next recruitment, provided, if the petitioner on his own willingness participate in the next recruitment if it is called for and is otherwise eligible and qualified.

With the above observation and directions, this writ petition is dismissed. No costs. Consequently, M.P(MD)No.1 of 2013 is closed.

Sd/-

Assistant Registrar(C.O)

/True Copy/

Sub Assistant Registrar.

To

1) The Director General of Police, Chennai.

2) The Superintendent of Police, Madurai District, Madurai.

+1CC to M/S.Jeyaramachandran, Advocate, SR.No. 3140

+1CC to the Special Government Pleader SR.No. 3067

W.P.(MD)No.9398 of 2013

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