

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2018

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A.No.1668 of 2016
and
C.M.P.No.20177 of 2016

N.Sivamurugan ...Appellant/Petitioner

Vs

- 1.Union Territory of Puducherry
Represented by the Inspector General of Police
Puducherry.
- 2.Recruitment Cell for selection and appointment
to the honorary post of Home Guards in Police Department
Represented by Chairman
Office of the Senior Superintendent of Police
Puducherry.
- 3.The Superintendent of Police (Headquarters)
Puducherry. ...Respondents/Respondents

Prayer:- Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order dated 07.04.2016 passed by this Court in W.P.No.13083 of 2016.

Prayer: Petition filed under article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus, calling for the records of the third respondent relating to the order in memorandum no.2853/A1/ Esst I(B)/ Pol/2014 dated 20.02.2016 to quash the same and to issue consequential directions to the respondents to confirm the provisional selection of the petitioner as Home Guard (Honorary Post) vide Sl.No.32 of the provisional select list published in No.2853/A1/ Esst.I(B)/ Pol/2014 dated 15.09.2015 and appoint the petitioner as such with retrospective effect from the date of appointment of the petitioners immediate junior with consequential benefits.

For Appellant : Mr.M.Ravi

For Respondents: Mr.R.Syed Mustafa
Special Government Pleader (Pondy)

JUDGMENT

P.VELMURUGAN, J.

This intra Court appeal is directed against the order dated 07 April, 2016, passed by the learned Single Judge in W.P. No.13083 of 2016.

2 The appellant submitted his application for appointment to the honorary post of Home Guard in the Police Department, Puducherry and he was provisionally selected. Thereafter, he appeared before the Recruitment Cell, produced the original certificates and filled up the Attestation Form. While so, by order dated 20 February, 2016, the third respondent cancelled the provisional selection of the appellant on the ground that he had been involved in a criminal case of assaulting and causing injuries to the police personnel. Calling in question the legality and validity of the said order dated 20 February, 2016 and also seeking a direction to the respondents to confirm his provisional selection as Home Guard and appoint him as such with retrospective effect from the date of appointment of his immediate junior with consequential benefits, the appellant preferred a writ petition in W.P.No.13083 of 2016.

3 The learned Single Judge, taking into account the law laid down by the Supreme Court as well as by this Court that any incumbent to the police service, who, because of his involvement in any criminal case before selection, gets the order of acquittal on the ground of benefit of doubt, still remains disqualified, dismissed the writ petition. The appellant is before this Court, challenging the order passed by the Writ Court.

4 Heard the learned counsel appearing on behalf of the appellant and the learned Special Government Pleader (Puducherry) for the respondents.

5 The incontrovertible facts of the case are as under:

The appellant registered his name in the Employment Exchange. While so, the third respondent published a notification for enrolment to the honorary post of Home Guards in the Police Department of Puducherry. In response thereto, the appellant submitted his application and he was called to

appear for the physical test. He came out successful in the physical test and was admitted for the written test. He was provisionally selected in the written test and was directed to report before the Superintendent of Police (Recruitment Cell) for certificate verification, during which process, he was instructed to fill up the Attestation Form, wherein, he had mentioned that he was involved in a criminal case in Cr.No.43 of 2008 on the file of the Thavalakuppam Police Station, Puducherry, for offences under Sections 143, 336, 333, 332 r/w 149 IPC and that he was acquitted subsequently by giving benefit of doubt.

6 It is the contention of the learned counsel for the appellant that the Central Administrative Tribunal, the High Court and the Supreme Court as well have taken a view that if a candidate is involved in a criminal case and subsequently acquitted, he is entitled to appointment, provided he is eligible in all other aspects; in the case at hand, concededly, the charges levelled against the appellant were not proved and he was acquitted on the ground of benefit of doubt; yet, the third respondent, without taking into account the acquittal of the appellant, cancelled his provisional selection, which is contrary to the settled legal position.

7 At the outset, it is to be borne in mind that the Department to which the appellant was provisionally selected for the post of Home Guard is the Police Department which is a uniformed service, where, the antecedents of a candidate to be appointed have to be given due regard and weightage. As stated above, the main bone of contention of the learned counsel for the appellant is that even as per the settled law, a candidate who is involved in a criminal case before selection, but, subsequently acquitted, is entitled to get appointment in a Government Department. The fact that the appellant was acquitted only on the ground of benefit of doubt and that he was not honourably acquitted, cannot be lost sight of. That apart, the charge levelled against the appellant is that he had attacked police personnel causing injuries to them. When the appellant has allegedly attacked police personnel even before entering into the service of the Department, it is highly doubtful if he would be able to maintain a calm atmosphere in the discharge of his duties, after his appointment in the Department. From a bare perusal of the order impugned herein, it is manifest that these vital aspects had rightly weighed with the learned Single Judge while rejecting the case of the appellant. In such perspective of the matter, this Court is of the view that the order passed by the learned Single Judge is perfectly valid warranting no interference whatsoever.

The intra court appeal fails as being bereft of merits and

stands dismissed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS IX)

//True copy//

Sub Assistant Registrar

gms

To

1. The Inspector General of Police
Union Territory of Puducherry
Puducherry.
2. The Chairman,
Recruitment Cell for selection and appointment
to the honorary post of Home Guards in Police Department
Office of the Senior Superintendent of Police,
Puducherry.
3. The Superintendent of Police (Headquarters)
Puducherry.

+1cc to Mr.M.Ravi, Advocate SR.No.73097
+1cc to Government Pleader SR.No.7272

W.A.No.1668 of 2016

BR(CO)
GN(09/03/2018)

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