



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 19.12.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P(MD)No.24416 of 2018
and

W.M.P(MD).Nos.22127 & 22128 of 2018

K.Karthick Kumar

... Petitioner

Vs.

1. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore, Chennai 600 008.

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

...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the entire records pertaining to the proceedings of the 2nd respondent made in Na.Ka.No.B1/23600/2017 dated 15.11.2018 and quash the same as illegal, consequently direct the respondents to grant an appointment to the petitioner, Enrollment No.2415493 pursuant to the common recruitment for the post of Grade-II Police Constable (Men, Women & Transgender), Grade-II Jail Warden (Men and Women) and Fireman for the year 2017-2018.

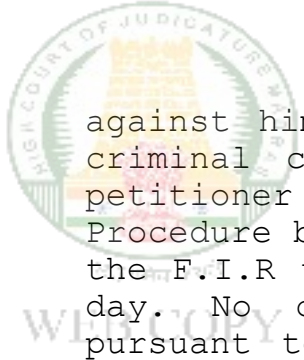
For Petitioner : Mr.R.Aravind Raj
For Respondents : Mr.A.Muthukaruppan
Additional Government Pleader

ORDER

The petitioner challenges the rejection of his candidature for the post of Grade-II Police Constable.

2.I have heard Mr.R.Aravind Raj, learned counsel appearing for the petitioner and Mr.A.Muthukaruppan, learned Additional Government Pleader appearing for the respondents.

3.The candidature of the petitioner has been rejected on the ground that he has not disclosed the criminal case that was filed



against him. The order of the Superintendent of Police refers two criminal cases. First one is Crime No.2012 of 2017 wherein the petitioner was charged under Section 151 of Code of Criminal Procedure by the Avaniyapuram Police Station. It is seen from the F.I.R that the same was closed as mistake of fact on the same day. No criminal case was registered against the petitioner, pursuant to the F.I.R in Crime No.2012 of 2017 dated 08.12.2017. Therefore, he was not under a obligation to disclose the same, when he filed an application for the post of Grade-II Police Constable.

4.As regards the second F.I.R the same came to be registered on 02.07.2018, the petitioner had filed an application for seeking appointment of Grade-II Police Constable on 26.01.2018. Therefore, he could not have disclosed the same in the application. The second F.I.R filed in Crime No.421 of 2018 was also closed as mistake of fact on 12.07.2018. The certificate verification took place on 07.09.2018. There was no F.I.R pending against the petitioner on the date of certificate verification. However, it appears that the closure of the second F.I.R dated 02.07.2018 was referred to the Magistrate in R.C.S.No.73 of 2018 and the said RCS was also closed by the Magistrate by order dated 30.11.2018. Therefore, there was no criminal case pending against the petitioner. In this circumstance, the rejection of the candidature of the petitioner on the ground that the criminal cases were pending or criminal antecedents cannot be justified. ***In Avtar Singh Vs.Union of India reported in 2016(8) SCC 471***, the Hon'ble Supreme Court held that even if a person convicted for the criminal offence, the authorities will have to look into nature of the offence as well as the seriousness of the same before rejecting the candidature of the person for appointment as police constable. Such being the case, the rejection of the candidature of the petitioner on the ground that some F.I.R was filed against him that too after, the same was referred as mistake of fact cannot be justified at all.

5.In view of the above, the impugned order of the second respondent is quashed and the writ petition is allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

6.The respondents are directed to consider the case of the petitioner for appointment of Grade-II Police Constable, if he is otherwise qualified. Such an exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-IV)



To

1. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore, Chennai 600 008

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

+ 1 CC TO Mr.R.ARAVINDRAJ, ADVOCATE IN SR No. 101090

MSA

TE/RSK/SAR-4 : 27/12/2018 : 3P/4C

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