



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.05.2018

CORAM:

WEB COPY

THE HONOURABLE **MR. JUSTICE G.R. SWAMINATHAN**

W.P. (MD) No. 10800 of 2018

and

W.M.P. (MD) No. 9911 of 2018

Prasath

... Petitioner

-Vs-

1. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road,
Egmore,
Chennai-600 008.
2. The Director General of Police,
O/o. The Director General of Police,
Chennai-4.
3. The Superintendent of Police,
Madurai District,
Madurai.
4. The Sub-Inspector of Police,
Palamedu Police Station,
Madurai District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in RC.No.B1/15331/162/2018-4 dated 26.04.2018 passed by the third respondent and quash the same as illegal and for consequential direction, directing the respondents to appoint the petitioner (Registration Number.2404723) as Grade-II Constable, Grade II Jail Warders and Firemen in the Tamil Nadu Uniformed Services Recruitment Board 2017 forthwith.

For Petitioner : Mr.R.Venkatesan

For Respondents : Mr.B.Pugalendhi
Additional Advocate General

**ORDER**

The petitioner was one of the candidates, who applied for being appointed to the post of Grade-II Police Constable, in the selection process held for the year 2017. He was disqualified on the ground that he suppressed his involvement in criminal case. The order of disqualification passed on 13.10.2017 was put in issue in W.P(MD).No.20165 of 2017. This Court by order dated 11.01.2018 set aside the same and remitted the matter to the file of the third respondent. After remand also, the third respondent re-iterated the earlier stand. The same is assailed in this writ petition.

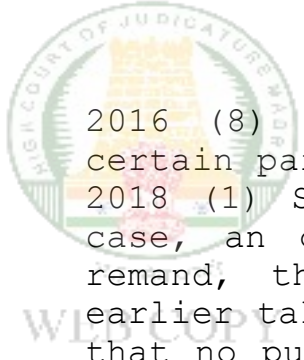
2.Heard the learned counsel for the petitioner and the learned Additional Advocate General appearing for the respondents.

3.The petitioner has been held not qualified to be appointed as Grade-II Police Constable on the ground that he was involved in criminal case and that the said fact was suppressed in his application. It is seen that Crime No.101 of 2013 was registered against the petitioner on 17.05.2013 by the fourth respondent. But the said case was closed as mistake of fact on the same day.

4.The learned counsel appearing for the petitioner took this Court to the final report filed by the fourth respondent in this regard. The fourth respondent in his report stated that no occurrence as alleged in Crime No.101 of 2013 ever took place. Since the fourth respondent had filed a mistake of fact report on the very same day of registration of the First Information Report, this Court is of the view that the petitioner would have absolutely no knowledge of the registration of the criminal case against him and therefore, the question of suppression of material fact would not arise. Inasmuch as the case was registered as early as in the year 2013 and the case was closed as mistake of fact on the same day by the Investigating Officer himself, disqualifying the petitioner on the said ground would amount to gross unreasonableness.

5.A candidate taking part in the recruitment process would attract disqualification if he has been involved in an offence. But then, if no event as alleged in the F.I.R had ever taken place, the question of involvement will not even arise. This is particularly in such cases where the F.I.R was registered and got closed as mistake of fact even without the knowledge of the candidate concerned. In such circumstances even the question of suppression would not arise unless it can be affirmatively shown that the candidate had knowledge of the registration of the case.

6.The Hon'ble Supreme Court in the decision reported in



2016 (8) SCC 471 (V.Avtar Singh v. Union of India) laid down certain parameters. The said decision was followed and applied in 2018 (1) SCC 268 (V.Avtar Singh v. Union of India). In this case, an order of remand was earlier passed. But, even after remand, the appointing authority chose to reiterate the stand earlier taken. In these circumstances, this Court is of the view that no purpose will be served by once again remitting the matter to the file of the authority. The case on hand is rather exceptional. The occurrence had taken place as early as in the year 2013. The registration as well as closure taken place on the said day. It may be that there is no material to show the acceptance of the closure report by the magistrate after putting the defacto complainant on notice. But then, such things are beyond the control of the petitioner herein.

7. In view of the peculiar circumstances obtaining in this case, this Court is constrained to quash the order impugned in this writ petition. It is accordingly quashed. The third respondent is directed to issue an order appointing the petitioner as Grade II Police constable. Such an order shall be issued by the third respondent within a period of six weeks from the date of receipt of a copy of this order.

8. The learned counsel appearing for the petitioner on instructions submits that he shall not claim any other consequential benefits and that the petitioner shall be satisfied if he is permitted to join the service after undergoing the training as and when it take place. It is further made clear that the petitioner shall not be eligible to claim any seniority by comparing himself to the other candidates who had been successful and selected in the very same recruitment process.

9. With this observation and direction, this writ petition stands allowed. No costs.

Sd/-

Vacation Officer(RTI)

/True Copy/

Sub Assistant Registrar

To

1. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road,
Egmore,



2. The Director General of Police,
O/o. The Director General of Police,
Chennai-4.

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

4. The Sub-Inspector of Police,
Palamedu Police Station,
Madurai District.

+ 1 cc TO Mr.R.Venkatesan , Advocate in SR No. 65204
+ 1 cc TO The Special Government Pleader in SR No. 65254

rmk/Ns

AE/JC/SAR4/29.05.2018/4P/7C

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and
W.M.P. (MD) No.9911 of 2018
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