



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **31.10.2018**

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

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W.A.[MD].Nos.1021, 1048, 1049, 1050, 1051, 1052 of 2015, 235 and
237 of 2017

and

M.P.(MD).Nos.2, 2, 2, 3, 1, 1, 2 of 2015, C.M.P.(MD).Nos. 2436,
2439 and 2440 of 2017

W.A. (MD) .No.1021 of 2015:-

1.The Director General of Police/Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
No.807, P.T.Lee Chengalvarrayar Maligai,
Anna Salai, Chennai 02.

2.The Superintendent of Police,
Sub-Committee,
The Common Recruitment of
Graders-II Police Constables/
Grade.II Jail Warders/Fireman - 2012,
Seethakathistadium, Collectorate Complex,
Ramanathapuram.

...Appellants/
Respondents

Vs.

S.Thirumurugan

...Respondent/
Petitioner

Prayer in WA(MD) . 1021/ 2015 :

Writ Appeal is filed under Clause 15 of Letter Patent Act,
against the order dated 16.04.2013 made in WP(MD)No.3327 of 2013.

Prayer in WP(MD) . 3327/ 2013 :

Writ Petition is filed under Article 226 of the Constitution
of India, praying this Court to issue a Writ of Mandamus or any
other appropriate writ or direction, directing the respondent
herein to appoint the petitioner as Grade II police Constable,
under recruitment process under common Recruitment of Grade II
police constables/Grade II Jail Warders/Firemen - 2012, having
qualified in all selection process.

WA(MD) .No.1048/2015:

1.The Director General of Police/Chairman,
Tamil Nadu Uniform Service Recruitment
Board, No.807, P.T.Lee Chengalvarrayar
Maligai, Anna Salai, Chennai-02.



2.The District Superintendent of Police,
Sivagangai District.

...Appellants/Respondents

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R.Alageswaran

VS.

...espondent/Petitioner

Prayer in WA(MD) . 1048/ 2015 :

Writ Appeal is filed under Clause 15 of Letter Patent Act, against the order dated 16.04.2013 made in WP(MD)No.5943 of 2013.

Prayer in WP(MD) . 5943/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified mandamus calling for the records relating to the impugned order vide in Na.Ka.No.A3/11758/2012 dated 24.01.2013 on the file of the 2nd respondent and quash the same and direct the respondents to appoint the petitioner as Grade II Police Constable.

1.The State of Tamil Nadu, Rep by its Home Department,
Fort St.,. George, Chennai.

2.The Director General of Police, Office Of The Director General
of Police, Chennai-4.

3.The Chairmen, The Tamil Nadu Uniformed Service Recruitment
Board, No.807, P.T.Lee. Chenguluaraya Naicker Maligai, Anna
Salai, Chennai-02.

4.The Superintendent of Police, Office of the Superintendent of
Police, Ramanathapuram District, Ramanathapuram.

...Petitioner/Appellants/
Respondents

VS.

T.Stalin

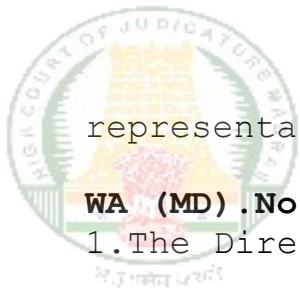
...Respondent/Respondent/
Petitioner

Prayer in WA(MD) . 1049/ 2015 :

Writ Appeal is filed under Clause 15 of Letter Patent Act, against the order dated 16.04.2013 made in WP(MD)No.4939/ 2013.

Prayer in WP(MD) . 4939/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus or any other writ or order or direction in the nature of writ directing the respondents to appoint the petitioner as Grade II Constable (TSP) along with batch mates, who were selected in the same recruitment process, by considering the petitioner's



representation dated 25.2.2013.

WA (MD) .No.1050 / 2015:

1.The Director General of Police, Chennai-4.

2.The Chariman, Tamil Nadu Uniformed Service Recruitment Board,
Chennai-02.

3.The District Superintendent of Police,
Ramanathapuram District.

...Petitioners/Appellants/
Respondents

VS.

J.Prabu

...Respondent/Respondent/
Petitioner

Prayer in WA(MD) . 1050/ 2015 :

Writ Appeal is filed under Clause 15 of Letter Patent Act,
against the order dated 16.04.2013 made in WP(MD)No.5696/ 2013.

Prayer in WP(MD) . 5696/ 2013 :

Writ Petition is filed under Article 226 of the Constitution
of India, praying this Court to issue a Writ of Certiorarified
Mandamus calling for the records relating to the impugned order
vide Na.Ka.No.A3/12999/2012 dated 15.12.2012 on the file of the
3rd respondent and quash the same and consequently direct the
respondent to give the petitioner an appointment order in
connection with the Common Recruitment of Grade II Police
Constables/Grade II Jail Warders/Firemen - 2012.

WA(MD) .No.1051/ 2015:

1.The Director General of Police, Mylapore, Chennai.

2.The Chairman, Tamil Nadu Uniformed Service Recruitment Board,
No.807, P.T.LEE. Chengalvaraya Naicker Maligai, Anna Salai,
Chennai-02.

3.The Member Secretary, Tamil Nadu Uniformed Service Recruitment
Board, No.807, P.T.LEE. Chengalvaraya Naicker Maligai, Anna
Salai, Chennai-02.

4.The Superintendent of Police, Office, Thoothukudi District,
Thoothukudi.

...Appellants/Respondents

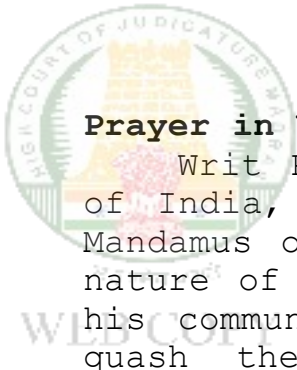
VS.

P.Muthukumaran

...Respondents/
Petitioner

Prayer in WA(MD) . 1051/ 2015 :

Writ Appeal is filed under Clause 15 of Letter Patent Act,
against the order dated 16.04.2013 made in WP(MD)No.5646/ 2013.



Prayer in WP(MD) . 5646/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus or any other appropriate writ or order or direction, in nature of writ, calling for proceedings of the 4th respondent in his communication dated 29.01.2013 in Na.Ka.No.A5/43879/2012 and quash the same and direct the respondents to appoint the petitioner in the post of Grade- II police Constable Selection for the year 2012.

WA(MD) .No.1052/ 2015:

- 1.The State of Tamil Nadu, Rep by its Principal Secretary to Government, Home Department, Fort St.,. George, Chennai.
- 2.The Chairman, Tamil Nadu Uniformed Service Recruitment Board, P.T.LEE. Chengalvaraya Naicker Building, No.807, 2nd Floor, Anna Salai, Chennai-02.
- 3.The Director General of Police, Mylapore, Chennai.
- 4.The Superintendent of Police, Office, Tuticorin District, Tuticorin.
- 5.The Inspector of Police, Masarpatti Police Station, Masarpatti, Tuticorin District. ...Appellants/Respondents

VS.

N.Pandian ...Respondent/Petitioner

Prayer in WA(MD) . 1052/ 2015 :

Writ Appeal is filed under Clause 15 of Letter Patent Act, against the order dated 16.04.2013 made in WP(MD)No.6217/ 2013.

Prayer in WP(MD) . 6217/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified mandamus, calling for the records relating to the order passed by the fourth respondent, dated 09.12.2012 in Na.Ka.No.A5/43879/2012 and quash the same and consequently, direct the respondents 1 to 4 to appoint the petitioners to the post of Grade II police constable pursuant to the recruitment process of the year 2012 held by the second respondent with all other consequential and attendant benefits.

WA(MD) .No.235/ 2015:

- 1.The Secretary to Govt, Govt of Tamil Nadu, Home Department, St.George Fort, Chennai.



Maligai, Anna Salai, Chennai-2.

3.The Superintendent of Police, District Police Officer,
Ramanathapuram, Ramanathapuram District.

...Appellants/Respondents

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VS

R.Ramar

...Respondent/Petitioner

Prayer in WA(MD) . 235/ 2015 :

Writ Appeal is filed under Clause 15 of Letter Patent Act, against the order dated 26/03/2013 made in WP(MD)No.2184/ 2013.

Prayer in WP(MD) . 2184/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the 3rd Respondent in Na.Ka.No.A3/12999/2012 dated 15.12.2012 and quash the same and consequently direct the respondents to issue appointment order to the petitioner as Grade II Police Constable within stipulated time as fixed by this Honourable Court.

WA(MD) .No.237/ 2015:

1.The Chairman, Tamil Nadu Uniformed Service Recruitment Board,
Sengalvaraya Naicker Maligai, Anna Salai, Chennai-2.

2.The Superintendent of Police, Ramanathapuram District.

...Appellants/Respondents

VS.

M.Balamurugan

...Respondent/Petitioner

Prayer in WA(MD) . 237/ 2015 :

Writ Appeal is filed under Clause 15 of Letter Patent Act, against the order dated 26/03/2013 made in WP(MD)No.2275/ 2013.

Prayer in WP(MD) . 2275/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the 2nd respondent, dated 15.12.2012 in Na.Ka. No. A3/12999/2012 and quash the same as illegal and consequently directing the 2nd respondent to consider the petitioner for his selection as Grade II Police constable, in Tamil Nadu Uniformed Services Recruitment Board - 2012 in the existing vacancies of the current year.



information of involvement in a criminal case where conviction or acquittal had already been recorded before filling of the application/verification form and such fact later comes to knowledge of employer, any of the following recourse appropriate to the case may be adopted : -

(a) In a case trivial in nature in which conviction had been recorded, such as shouting slogans at young age or for a petty offence which if disclosed would not have rendered an incumbent unfit for post in question, the employer may, in its discretion, ignore such suppression of fact or false information by condoning the lapse.

(b) Where conviction has been recorded in case which is not trivial in nature, employer may cancel candidature or terminate services of the employee.

(c) If acquittal had already been recorded in a case involving moral turpitude or offence of heinous/serious nature, on technical ground and it is not a case of clean acquittal, or benefit of reasonable doubt has been given, the employer may consider all relevant facts available as to antecedents, and may take appropriate decision as to the continuance of the employee.

5. In a case where the employee has made declaration truthfully of a concluded criminal case, the employer still has the right to consider antecedents, and cannot be compelled to appoint the candidate.

6. In case when fact has been truthfully declared in character verification form regarding pendency of a criminal case of trivial nature, employer, in facts and circumstances of the case, in its discretion may appoint the candidate subject to decision of such case.

7. In a case of deliberate suppression of fact with respect to multiple pending cases such false information by itself will assume significance and an employer may pass appropriate order cancelling or terminating services as appointment of a person against whom multiple criminal cases were pending may not be proper.



8.If criminal case was pending but not known to the candidate at the time of filling the form, still it may have adverse impact and the appointing authority would take decision after considering the seriousness of the crime.

9.In case the employee is confirmed in service, holding Departmental enquiry would be necessary before passing order of termination/removal or dismissal on the ground of suppression or submitting false information in verification form.

10.For determining suppression or false information attestation/verification form has to be specific, not vague. Only such information which was required to be specifically mentioned has to be disclosed. If information not asked for but is relevant comes to knowledge of the employer the same can be considered in an objective manner while addressing the question of fitness. However, in such cases action cannot be taken on basis of suppression or submitting false information as to a fact which was not even asked for.

11.Before a person is held guilty of suppressio veri or suggestio falsi, knowledge of the fact must be attributable to him.

4.The said decision of the Hon'ble Supreme Court of India was followed in a batch of cases in W.P.Nos.1241 of 2015 and etc. and the Division Bench of the Madras High Court (to which one of us Mr.Justice K.K.SASIDHARAN was a party) passed an order dated 22 February 2017 enabling the employer to exercise their discretion to terminate or otherwise to condone the omission or false report. The authorities were directed to examine the matter afresh and take decision one way or other. The Government of Pudhucherry had constituted a Screening Committee and the matter was directed to be placed before the Screening Committee.

5.Following the said decision, the present appeals are also disposed of. The Director General of Police, Mylapore, Chennai shall consider the cases of the writ petitioners herein and take a decision one way or the other. It is open to him to condone the ~~unsubstantiated~~ ^{unsubstantiated} allegations attributed to the writ petitioners. In view of the decision to remit the matter to the file of the Director General of Police, Chennai for fresh



consideration, we consider it not necessary to deal with the facts of individual cases. The Director General of Police, Chennai shall take a decision within a period of two months from the date of receipt of a copy of this order.

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3. In such view of the matter, these Writ Appeals are disposed of on similar line. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS-IV)

To

1. The Principal Secretary to Government of Tamil Nadu Home Department, For St., George, Chennai.
2. The Director General of Police/Chairman, Tamil Nadu Uniformed Services Recruitment Board, No.807, P.T.Lee Chengal varrayar Maligai, Anna Salai, Chennai 02.
3. The Superintendent of Police, Sub-Committee, The Common Recruitment of Graders-II Police Contable/Grade, II Jail Warder/Fireman-2012, Ramanathapuram.
4. The Superintendent of Police, Sivagangai District.
5. The Director General of Police, Officer of the Director General of Police, Chennai-4.
6. The Superintendent of Police, Office of the Superintendent of Police, Ramanathapuram District, Ramanathapuram.
7. The Superintendent of Police, Thoothukudi District, Thoothukudi.
8. The Inspector of Police, Masarpatti Police Station, Masarpatti, Tuticorin District.



- + 2 CC TO MR.A.N.RAMANATHAN, ADVOCATE IN SR NO.93750,93571
- + 1 CC TO MR.G.PRABHU RAJADURAI, ADVOCATE IN SR NO.93688
- + 1 CC TO MR.S.MALAİKANI, ADVOCATE IN SR NO.93666
- + 1 CC TO MR.M.MUNIYASAMY, ADVOCATE IN SR NO.94031
- + 1 CC TO MR.M.LAXMI MAHENDRAN, ADVOCATE IN SR NO.93444
- + 1 CC TO SPECIAL GOVERNMENT PLEADER, IN SR NO.93860,93861,93862 & 93863

NB

BU/SKN/SAR-IV:19.11.2018 : 10P/16C

COMMON JUDGMENT MADE IN
W.A.[MD].Nos.1021, 1048, 1049, 1050, 1051, 1052 of 2015, 235 and
237 of 2017
31.10.2018