



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2018

CORAM:

WEB COPY

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

W.P. (MD) No.22711 of 2018

and

W.M.P (MD) No.20604 of 2018

M.Ayyappan

... Petitioner

vs .

1. The Chairman,
Tamilnadu Uniformed Services Recruitment Board,
No.807, Chengalvaraya Mailgai,
Anna Salai, Chennai-600 002.
2. The Member Secretary,
Tamilnadu Uniformed Services Recruitment Board,
Chennai.
3. The Additional Director General of Police/
The Inspector General of Police,
Venals Road, Egmore,
Chennai-600008.
4. The Superintendent of Police,
Tirunelveli District,
Tirunelveli.
5. The Inspector of Police,
Kadayam Police Station,
Kadayam, Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus, to call for the impugned order passed by the third respondent dated 28.07.2018 under Reference 3583/EW.1/2017-15 and quash the same as illegal and devoid employment to the petitioner as Grade-II Police Constables/Grade-II Jail Warden and Fireman pursuance of the selection process as made by them earlier forthwith.

For Petitioner : Mr.S.Palani Velayutham

For Respondents : Mr.K.Chella Pandian

Additional Advocate General
assisted by Mr.A.Muthukaruppan,
Additional Government Pleader.

**ORDER**

The writ petitioner herein seeks appointment as Grade-II Warder. According to the petitioner herein though he was called for certificate verification, due to involvement in the criminal case he was not selected by the respondents herein.

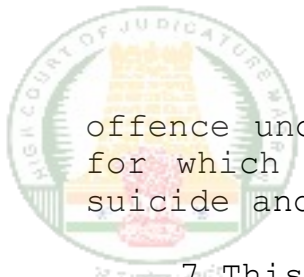
2. According to the petitioner, the criminal case referred in the impugned order for not selecting the petitioner, is in respect of suicide committed by his paternal uncle's wife. The de facto complainant was his paternal uncle. Along with the petitioner, his father, mother and brother were arrayed as accused in Crime No.392 of 2014 on the file of the Inspector of Police, Kadayam Police Station.

3. The contention of the petitioner herein is that the said complaint was given due to property dispute between his father and the de facto complainant with the mala fide intention. Later the case was quashed in CrI.O.P(MD)No.17201 of 2017 dated 14.12.2017 pursuant to the compromise ended between the de facto complainant and the accused. While so, it is contended by the petitioner that due to the pendency of the criminal complaint the respondent has refused to consider him for the post, inspite of being otherwise qualified in all aspects.

4. The impugned order passed by the Additional Director General of Police/Inspector General of Prisons reveals that the first respondent has considered the entire facts as well as the guidelines given by the Hon'ble Supreme Court in the case of **Avatar Singh Vs Union of India** reported in **2016 (8) SCC 471** and thereafter has decided to reject his request on the ground that the involvement of the petitioner in the criminal case makes him unfit to be in the uniformed force, where every member is expected to be honestly and sincerely report the information came to their knowledge in the public interest. The members of this department are entrusted with an important responsibility of upholding the rule of law, maintenance of prison security, prevention of crime etc., Hence, considering his bad antecedents and bad character, he could not be appointed to the post of Grade-II warder.

5. For arriving at the above said conclusion the third respondent has also extracted the relevant guidelines of the Hon'ble Supreme Court rendered in **Avatar Singh's case**, wherein the Court has stated that 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. Insofar this case is concerned, no doubt the criminal case has been filed against this petitioner in crime No.392 of 2014 on the file of the Inspector of Police, Kadayam Police Station for the



offence under Sections 294(b), 306 r/w. 109 IPC. The very section for which the case was registered clearly indicates it a case of suicide and abatement.

7. This specific case of the writ petitioner is that on the date of occurrence he was in Army and he has nothing to do with the suicide committed by the wife of the de facto complainant and furthermore the motive is attributed in the complaint. Taking note of the fact that the de facto complainant and accused person in the said complaint are closely related, there was a dispute regarding partition of the property, later they have compromised the issue and reported to the Court and pursuant to that, this Court has quashed the criminal complaint, the respondent cannot construe the complaint registered against the petitioner disclosed the bad antecedents, as pointed out by the petitioner. He has honestly disclosed about the criminal case while applying and the conclusion of the criminal case by the proceedings of this Court quashing the complaint. While so, that singular fact cannot be taken as bad antecedents or come to the conclusion that the petitioner herein is a man of bad character. Hence, the impugned order is liable to be quashed.

8. Accordingly, this Writ Petition is allowed and the impugned order dated 28.07.2018 is quashed. The third respondent is hereby directed to reconsider the representation of the petitioner herein and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-IV)

To:

1. The Chairman,
Tamilnadu Uniformed Services Recruitment Board,
No.807, Chengalvaraya Mailgai,
Anna Salai, Chennai-600 002.
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4. The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

5. The Inspector of Police,
Kadayam Police Station,
Kadayam, Tirunelveli District.

+ 1 CC TO Mr.S.PALANI VELAYUTHAM, ADVOCATE IN SR No. 97229

CP

TE/BK/SAR-4 : 26/12/2018 : 4P/7C

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