



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 12.12.2018

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THE HONOURABLE MR. JUSTICE R. SUBRAMANIAN

WEB COPY

W.P. (MD) No. 22921 of 2018
and
W.M.P. (MD) No. 20823 of 2018

A. Mageshvaran

... Petitioner

Vs.

1. The Chairman,
Tamil Nadu Uniformed Services
Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore, Chennai-8.

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

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari Mandamus, to call for the records relating to the order in Na.ka.No.A4/137/2018, dated 06.11.2018 on the file of the second respondent and quash the same and further directing the respondent to appoint the petitioner in the post of Grade II Police Constable in the Recruitment Process of Grade II Police Constable, Grade II Jail Warden and Fireman by the first respondent for the year 2017-2018.

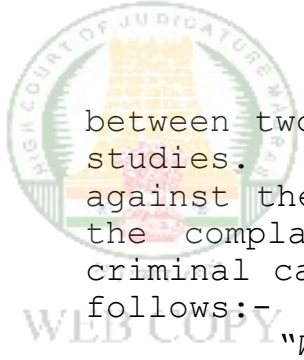
For Petitioner : Mr. K. Jeya Mohan
for Mr. K. Prabhu

For Respondents : Mr. A. Muthu Karuppan
Additional Government Pleader

ORDER

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

2. The claim of the petitioner was rejected on the ground that he has suppressed the fact that the FIR had been filed against him in the year 2016. The Superintendent of Police, Tirunelveli District, had concluded that the petitioner is guilty of suppression on the ground that he has not disclosed the filing of the criminal case.



between two groups of students when the petitioner was pursuing his studies. In the FIR also, no specific overt act has been alleged against the petitioner. A counter FIR has also been filed against the complainant. No doubt, the petitioner has stated that no criminal case has been filed against him to the query which reads as follows:-

"Whether any criminal case has been filed against him?"

4.It is also seen from the order of this Court dated 15.11.2017 made in CrI.O.P.(MD)Nos.14571 and 14572 of 2017 that the FIR's had been quashed on a compromise have been reached between the parties. The only ground for rejection of the claim of the petitioner is non disclosure of the filing of the criminal case.

5.A similar situation has been considered by the Division Bench in **Writ Appeal No.753 of 2018, dated 24.07.2018**, to which, I was a party. After considering the decision of the Hon'ble Supreme Court in **Avtar Singh Vs. Union of India reported in (2016) 8 SCC 471** as well as the earlier judgment of the Division Bench of this Court in W.P.(MD)Nos.1241, 9338, 9329 of 2015, we had concluded that the employer has discretion to cancel the appointment or otherwise condone the omission.

6.In the case on hand, I do not find willful suppression on the part of the petitioner and the offences alleged in the FIR are also trivial in nature. The fact that the incident occurred when the petitioner was a student should also be considered. Therefore, I am of the considered opinion that the order of rejection passed by the Superintendent of Police does not reflect the consideration of the above principles laid down in **Avtar Singh Vs. Union of India reported in (2016) 8 SCC 471**. Hence, I am of the considered opinion that the impugned order suffers from non consideration of the required parameters set out by the Hon'ble Supreme Court. Hence, the impugned order is set aside. The matter is remitted back to the Superintendent of Police for consideration in the light of the Judgment of the Hon'ble Supreme Court in **Avtar Singh Vs. Union of India reported in (2016) 8 SCC 471** and the judgment of the Division Bench of this Court in **Writ Appeal No.753 of 2018, dated 24.07.2018**. Such exercise shall be carried out within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd

ASSISTANT REGISTRAR (RECORDS)

TRUE COPY

SUB ASSISTANT REGISTRAR (CS II)

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To

1.The Chairman,
Tamil Nadu Uniformed Services
Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore, Chennai-8.

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

1CC TO MR. K. PRABHU ADVOCATE SR 100066
1CC TO THE SPL GOVT PLEADER SR 100433

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order made in
W.P. (MD) No.22921 of 2018
and
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