



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.12.2018

CORAM

THE HON'BLE Mr.JUSTICE R.SUBRAMANIAN

W.P. (MD) No.23773 of 2018

and

W.M.P. (MD) .No.21529 of 2018

T.Saravana Kumar

... Petitioner

-vs-

1.The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Home (Police) Department,
Secretariat, Chennai.

2.The Chairman,
Tamil Nadu Uniform Services Recruitment Board,
No.807, 2nd Floor,
Anna Salai, Chennai.

3.The Director General of Police,
O/o. The Director General of Police,
Mylapore, Chennai.

4.The Commissioner of Police,
O/o . Commissioner of Police,
Madurai City,
Madurai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.B1/64206/Gr.II PC-VR/2018 dated 20.11.2018, on the file of the fourth respondent and quash the same as illegal and consequently direct the fourth respondent to appoint the petitioner for the post of Tamil Nadu Police Constable Grade -II / Armed Reserved candidates for the year 2018 with consequential benefits within the time period stipulated by this Court.

For Petitioner : Mr.T.Aswin Rajasimman
for Mr.T.Lajapathi Roy

For Respondents: Mr.K.Chellapandian
Additional Advocate General
assisted by Mr.A.Muthu Karuppan
Additional Government Pleader

**O R D E R**

The petitioner challenges the rejection of his candidature for the post of Police Constable Grade-II on the ground that he was involved in a criminal case and he was acquitted, because the witnesses in the said case turned hostile. The Authority viz., the Commissioner of Police, Madurai, by a reasoned order dated 20.11.2018, rejected the candidature of the petitioner. The question as to the right of the employer to reject the candidature of the petitioner, who is involved in a criminal case, is no longer res integra. In fact, the Division Bench of this Court in W.A.No.753 of 2018 (to which I was a party)-(The Director General of Police, Chennai-600 004 vs. S.Satheesh Kumar), held that the discretion to cancel the appointment of a person based on his antecedents lies with the employer and this Court cannot test the wisdom of the employer in taking a decision. While doing so, it has been observed as follows:-

"8.The Hon'ble Supreme Court after setting out the wide parameters had conferred the discretion on the employer to cancel the appointment or otherwise condone the omission or the false representation. In the case on hand, we find that there is no false representation to disclose his involvement in the criminal case can at best be termed as omission."

2.Tested in back drop of the law laid down by the Hon'ble Supreme Court as well as this Court, the employer has got a discretion to reject the candidature of a person that too for the post in the uniformed services. Admittedly, in the case on hand that the petitioner was involved in a criminal case and the said case ended in acquittal on 18.09.2017. The appointing authority viz., the Commissioner of Police, Madurai, had taken into account the findings of the Court and the nature of the offences.

3.Considering the fact that the acquittal was on the ground that the witnesses turned hostile, the Appointing Authority has concluded that the petitioner is un-fit for appointment as a Police Constable Grade-II.

4.The learned counsel appearing for the petitioner would vehemently contend that the Appointing Authority has not gone into the merits of the case and has not given reasons for rejecting the claim of the petitioner.

5.A perusal of the impugned order shows that the Appointing Authority has considered the provisions of the Indian Penal Code as well as the reasons for the acquittal.

6.Apart from considering the case in the light of the pronouncements of the Hon'ble Supreme Court in Union Territory Chandigarh Administration and ors. Vs. Pradeep Kumar and another, I



see no reason to interfere with the discretion exercised by the Appointing Authority.

7. In fine, the Writ Petition fails and W.M.P.(MD).No.21529 of 2018 stands dismissed. No costs.

WEB COPY

Sd/-

Assistant Registrar(co)

/True Copy/

Sub Assistant Registrar(cs-IV)

To

1. The Principal Secretary to Government
the State of Tamil Nadu,
Home (Police) Department,
Secretariat, Chennai.

2. The Chairman,
Tamil Nadu Uniform Services Recruitment Board,
No.807, 2nd Floor,
Anna Salai, Chennai.

3. The Director General of Police,
O/o. The Director General of Police,
Mylapore, Chennai.

4. The Commissioner of Police,
O/o . Commissioner of Police,
Madurai City,
Madurai.

+2cc to Mr.T.Lajapathi Roy Advocate in SR.No.99997

W.P. (MD) No.23773 of 2018
11.12.2018

TSG

SPPM SAR4 18.12.2018 3P 7C