



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.01.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) No.19904 of 2017

and

W.M.P. (MD) No.16176 of 2017

M.Dinesh Kumar

... Petitioner

Vs.

1. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Chennai - 600 008.
2. The Director General of Police,
Office of the Director General of Police,
Mylapore, Chennai - 600 004.
3. The Superintendent of Police,
Office of the District Superintendent of Police,
Theni District, Theni. ... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned notice issued by the 3rd respondent in his proceedings in Na.Ka.No.A3/12750/2017 dated 09.10.2017 and quash the same and consequently direct the respondents to appoint the petitioner in the post of Police Constable Grade II - 2017.

For Petitioner : Mr/s.Laxmi Mahendran

For Respondents : Mr.B.Pugalendhi,
Additional Advocate General
Asst.by Mr.A.K.Bhaskarapandian,
Special Government Pleader

O R D E R

The Chairman, Tamil Nadu Uniformed Services Recruitment Board, Chennai - 2, issued notification dated 23.01.2017 inviting applications for the post of Police Constables - Grade II, Jail Warders - Grade II and Fireman, 2017.



2.The petitioner herein was eligible to apply for the said post. He submitted his application dated 05.02.2017. He was issued with the hall ticket. He took part in the selection process and was found to be successful. But, he was denied appointment on the ground that his character and antecedent were not found to be satisfactory. The third respondent issued the impugned memorandum dated 09.10.2017 in this regard. The same is questioned in this writ petition.

3.Heard the learned counsel appearing for the writ petitioner as well as the learned Additional Advocate General for the respondents.

4.The learned counsel appearing for the writ petitioner pointed out that though the writ petitioner was shown as Accused No.2 in Crime No.258 of 2016 on the file of the Gudalur North Police Station on 03.06.2016, he was acquitted by judgment dated 07.02.2017 by the learned the Sessions Judge/Mahila Court, Theni. He would therefore contend that it is not open to the authorities to still insist that he was involved in a criminal case.

5.The learned Additional Advocate General on the other hand drew the attention of this Court to the serious allegations made against the writ petitioner. He also pointed out that there has been a deliberate and wilful suppression of the involvement in the criminal case by the writ petitioner. Admittedly, the writ petitioner did not refer to the said criminal case when he submitted the application form. He therefore wanted this Court to sustain the order denying appointment to the petitioner.

6.The writ petitioner seeks entry into police department. He was implicated not in a petty criminal case, but a serious one. It was a case involving Section 4 of POCSO Act, 2012. In the typed set of papers, the copy of the judgment dated 07.12.2017 in Special Case No.75 of 2016 on the file of Mahila Court, Theni is enclosed. No doubt, the case ended in acquittal. But, in para 18 of the judgment, the statement recorded under Section 164 of Cr.P.C., before the Fast Track Court Judge, Theni was marked as Ex.P7. The victim child had narrated the sexual abuse and torture to which he was subjected to. However, before the criminal Court, the prosecution witnesses turned hostile. It is obvious that in view of Ex.P7 marked in the said judgment, the acquittal rendered in favour of the writ petitioner cannot be said to be honourable. In all probability, the parents of the victim child were won over by the accused.

7.Rule 14(b)(ii) and (iv) of Tamil Nadu Special Police Services Rules reads as under:

"14(b) - No person shall be eligible for appointment



to the service by direct recruitment unless he satisfies the appointing authority that

(i)

(ii) that his character and antecedents are such as to qualify him for such service; and

(iii)

(iv) that he has not involved in any criminal case before police verification"

8.A Full Bench of this Court in the decision reported in (2008) 2 MLJ 1203 (FB) - Manikandan v. Chairman, T.N.Uniformed Services, held as follows:

"(a) that by virtue of Explanation 1 to clause (iv) of Rule 14(b) of the Tamil Nadu Special Police Subordinate Service Rules, a person acquitted on benefit of doubt or discharged in a criminal case, can still be considered as disqualified for selection to the police service of the State and that the same cannot be termed as illegal or unjustified; and

(b) That the failure of a person to disclose in the application form, either his involvement in a criminal case or the pendency of a criminal case against him, would entitle the appointing authority to reject his application on the ground of concealment of a material fact, irrespective of the ultimate outcome of the criminal case."

9.The matter was once again referred to a Larger Bench and this Court in the decision reported in **2014(2) CTC 337 - J.Alex Ponseelan V. The Director General of Police, Tamil Nad (LB)**, affirmed that the law laid down in Manikandan's case still holds the field and that there was no need to revisit the same.

10.Considering the serious nature of the case, in which the writ petitioner was involved and the fact that the victim had given a statement under Section 164 of Cr.P.C., I am of the view that no indulgence deserves to be shown to the writ petitioner. Admittedly the writ petitioner had indulged in suppression of facts. He failed to disclose the registration of the criminal case while filling up the application form. The writ petitioner would take a stand in his affidavit filed in support of the writ petition that he had taken the assistance of a retired V.A.O. and that based on his guidance, he filled up the form and that the suppression was not deliberate. On the date when the application form was filled up, the criminal case was very much pending. The judgment of acquittal came a little later. Taking note of the nature of allegations made against the writ petitioner viz., that he sexually abused a child, I am not inclined to grant any relief to the writ petitioner. Therefore, the order impugned in the writ petition is sustained.



11. This writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS-I)

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/True Copy/

Sub Assistant Registrar

To

1. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Chennai - 600 008.
2. The Director General of Police,
Office of the Director General of Police,
Mylapore, Chennai - 600 004.
3. The Superintendent of Police,
Office of the District Superintendent of Police,
Theni District, Theni.

+ 1 cc TO The Special Government Pleader in SR No. 40661

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