



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P (MD) No.6799 of 2013
and
M.P. (MD) No.2 of 2013

Tamilkannan

... Petitioner

Vs.

1. The Director General of Police,
Kamarajar Salai,
Mylapore,
Chennai - 4.
2. The Chairman,
Tamil Nadu Uniformed Service Recruitment Board,
Annasalai,
Chennai - 2.
3. The Superintendent of Police,
Sivagangai,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the third respondent in Na.Ka.No.A3/11758/2012 dated 24.01.2013 and quash the same as illegal and consequently direct the respondents to appoint the petitioner as Grade II Police Constable for the year 2012 within a time frame as may fixed by this Court.

For Petitioner : Mr.J.Jeyakumaran
For Respondents : Mr.R.Sethuraman
Special Government Pleader

ORDER

The non selection of the writ petitioner in proceedings dated 24.01.2013 is under challenge in this writ petition.

2.The writ petitioner participated in the process of selection for recruitment to the post of Grade II Police Constable pursuant to the notification issued by the respondents. The writ petitioner participated in the written examination and successfully passed.



Accordingly, he was called for the physical eligibility test and endurance test and thereafter, for medical examination and certificate verification.

3. The writ petitioner was not appointed and an order of rejection of his candidature was issued by the third respondent in proceedings dated 24.01.2013 stating that the writ petitioner has involved in a criminal case in Cr.No.65 of 2008 registered by the Ilaiyankudi Police Station under Sections 147, 341, 332 r/w 3 (1) (x) of SC/ST Act. The writ petitioner was included as 8th accused in the criminal case and subsequently, he was acquitted from the criminal case in S.C.No.96 of 2009 under Sections 147, 148, 294(b), 341, 427, 109 and 506(ii) IPC and in this case the writ petitioner was included as third accused and subsequently, the criminal case was quashed by this Court.

4. The impugned order further states that the writ petitioner had suppressed the fact regarding the registration of a criminal case against him in the application form, more specifically, in Serial No.15, 16 and 18. The fact regarding the criminal case history is totally suppressed by the writ petitioner in his application. Thus, as per the Tamil Nadu State and Subordinate Services Rule, the writ petitioner is not eligible for appointment to the post of Grade II Police Constable in Tamil Nadu police service.

5. The learned counsel for the writ petitioner states that the writ petitioner was acquitted in one case and in another case he was discharged. Therefore, the case of the writ petitioner ought to have been considered.

6. The learned Special Government Pleader appearing on behalf of the respondents states that the writ petitioner had suppressed the fact regarding the registration of a criminal case against him and his involvement in the criminal case has been totally suppressed in the application submitted by the writ petitioner for recruitment to the post of Grade II Police Constable. Thus, he is not entitled for appointment.

7. This Court is of an opinion that the recruitment is to the post of Grade II Police Constable, which is an uniformed services. Thus, the suppression of fact in respect of the involvement of the criminal case is vital for the purpose of selection. Recently the Hon'ble Supreme Court of India in the case of **UNION TERRITORY, CHANDIGARH ADMINISTRATION AND ORS. Versus PRADEEP KUMAR AND ANOTHER** made in **CIVIL APPEAL NO. 68 OF 2018 WITH CIVIL APPEAL NO.69 OF 2018 WITH CIVIL APPEAL NO. 70 OF 2018**, wherein, the principles are narrated as under:

15. From the above details, we find that the Screening Committee examined each and every case of the respondents and reasonings for their acquittal and taken the decision. While deciding whether a person involved in a criminal case has been

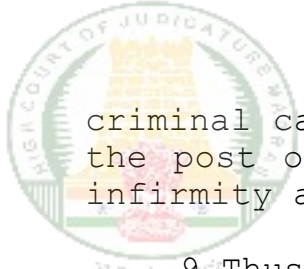


acquitted or discharged should be appointed to a post in a police force, nature of offence in which he is involved, whether it was an honourable acquittal or only an extension of benefit of doubt because of witnesses turned hostile and flaws in the prosecution are all the aspects to be considered by the Screening Committee for taking the decision whether the candidate is suitable for the post. As pointed out earlier, the Screening Committee examined each and every case and reasonings for their acquittal and took decision that the respondents are not suitable for the post of Constable in Chandigarh Police. The procedure followed is as per guideline 2(A) (b) and object of such screening is to ensure that only persons with impeccable character enters police force. While so, the court cannot substitute its views for the decision of the Screening Committee.

16. On behalf of the respondents, much reliance was placed upon *Joginder Singh v. Union Territory of Chandigarh and Others* (2015) 2 SCC 377. In the said case, the appellant thereon was charged under Sections 148, 149, 323, 325 and 307 IPC but acquitted by the trial court holding that the prosecution has failed to prove the charges levelled against him since complainant as well as injured eye witnesses failed to identify the assailants and the complainant had stated that his signature was obtained on a blank sheet by the Investigating Officer. The case involved was a family dispute. In such facts and circumstances, this Court held that acquittal of appellant Joginder Singh was an honourable acquittal and hence, he should not be denied appointment to the post in question. The decision in Joginder Singh case does not advance the case of the respondents herein.

17. In a catena of judgments, the importance of integrity and high standard of conduct in police force has been emphasized. As held in *Mehar Singh* case, the decision of the Screening Committee must be taken as final unless it is *mala fide*. In the case in hand, there is nothing to suggest that the decision of the Screening Committee is *mala fide*. The decision of the Screening Committee that the respondents are not suitable for being appointed to the post of Constable does not call for interference. The Tribunal and the High Court, in our view, erred in setting aside the decision of the Screening Committee and the impugned judgment is liable to be set aside.

8. In the present case, the writ petitioner had suppressed the fact regarding his involvement in the criminal case. The mere acquittal cannot be a ground to claim appointment. Even in case of acquittal, it is the discretionary of the selection authorities to verify the entire character and antecedents of the candidate and reject the selection. Thus, the reasons stated in the impugned order that the writ petitioner had involved in a criminal case and further he had suppressed the fact regarding his involvement in the



criminal case in the application submitted by him for recruitment to the post of Grade II Police Constable is in order and there is no infirmity as such.

9. Thus, no further adjudication is required in this writ petition. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (AD-II)

/True Copy/

Sub Assistant Registrar

To

1. The Director General of Police,
Kamarajar Salai,
Mylapore,
Chennai - 4.
2. The Chairman,
Tamil Nadu Uniformed Service Recruitment Board,
Annasalai,
Chennai - 2.
3. The Superintendent of Police,
Sivagangai,
Sivagangai District.

+ 1 CC TO Mr.J.JEYAKUMARAN, ADVOCATE IN SR No. 52357
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 52517

MM

TE/KKR/SAR-4 : 06/04/2018 : 4P/6C

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M.P.(MD) No.2 of 2013
28.02.2018
(1/2)