



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P (MD) No.7625 of 2013

and

M.P. (MD) No.2 of 2013

S.Chinasamy

... Petitioner

Vs.

1.The Director General of Police,
Head Quarters Office,
Chennai.

2.The Superintendent of Police,
Thanjavur.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the impugned Order of the 2nd Respondent in Na.Na.No.A2/11666/2012 dated 18.02.2013 and quash the same as illegal and direct the Respondents to select the petitioner as eligible candidate for the Post Grade II Police Constable.

For Petitioner : Mr.S.Muthukrishnan
For Respondents : M/s.VPM.Vaishnavi
Government Advocate

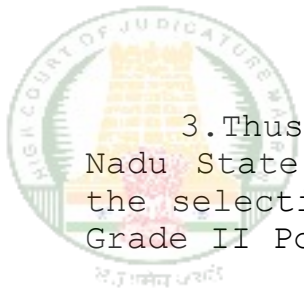
ORDER

The order of non selection dated 18.02.2013 in relation to the post of Grade II Police Constable is under challenge in this writ petition.

2.The writ petitioner participated in the process of selection pursuant to the notification issued by the respondents for recruitment to the post of Grade II Police Constable. The writ petitioner successfully passed in the written examination and attended physical eligibility test, endurance test and efficiency test. Thereafter, he participated in the medical examination and certificate verification. However, the candidature of the writ petitioner was rejected by the second respondent in proceedings dated 18.02.2013 on two grounds i.e.,

(i) The writ petitioner had entered in a criminal case in Cr.No.379 of 2011 under Sections 294(b) and 324 IPC. However, the criminal case was ended with an order of acquittal on 23.11.2012.

(ii) The writ petitioner had suppressed the fact regarding his involvement in the criminal case and the registration of a criminal case itself.



3. Thus, the respondents had invoked rule 14 (b) of the Tamil Nadu State and Subordinate Service Rules and accordingly, deferred the selection of the writ petitioner for appointment to the post of Grade II Police Constable.

4. The learned Government Advocate appearing on behalf of the respondents states that the writ petitioner had suppressed the fact in relation to the involvement in a criminal case and the registration of a criminal case. Further, the acquittal of the writ petitioner in a criminal case cannot be a ground for selection. The antecedents and characters were verified by the competent authorities and the decision was taken by the selection authorities. In this regard, the counter affidavit filed by the second respondent states as follows:

4. The reported judgment familiarly known as Manikandan case reported in 2008 (2) CTC 97 had categorically upheld the provision of 14(b) and had stated that the person with criminal color cannot be quoted with a person without criminal back round.

5. In one case (Jai nathara Singh case) reported in 2012 (7) MLJ 68 (SC) the Hon'ble Apex Court had referred the issue of non disclosures of the facts about criminal back round to the larger bench.

6. More particularly on 02.07.2013 Hon'ble Supreme Court in a case SLP (Civil) Appeal No.38886/2013 for SLP (Civil) Appeal No.4057 of 2013 in Civil Appeal No.4892 of 2013 and 4965 of 2013 respectively, this Lordship Smt.Ranjana Prakash Desai & Lordship G.S.Singvi JJ have held that person with criminal antecedents cannot be a police personnel.

7. The Hon'ble Division Bench of Madras High Court Madurai Bench deciding the same issued in W.A.272 of 2013 prepared by the State had allowed the writ appeal following above referred judgment.

8. It is further submitted that according to the rule 14 (b) of Special Rules for Tamil Nadu Special Police Subordinate Service as amended in G.O.Ms.No.101 Home (Pol.IX) Department dated 30.01.2003 that,

"No person shall be eligible for appointment to the service by direct recruitment unless he satisfies the appointing authority"

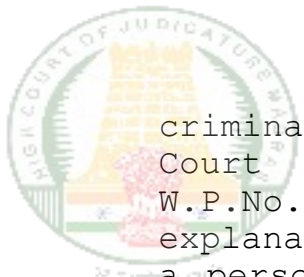
(i) that his character and antecedents should be good as to qualify him for such service.

(ii) that he should have not involved in any criminal case.

9. It is also further submitted that while filing up the column 15, 16 & 18 of the Verification Roll, the candidate has suppressed the fact, regarding his involvement in the above criminal case.

10. Further, a person who is acquitted or discharged on benefit of doubt or due to the fact that the complainant

"turned hostile" shall be treated as person involved in a



criminal case. Accordingly, the Hon'ble Full Bench of High Court of Madras in the judgment dated 28.02.2008 in W.P.No.38298 of 2005 etc., has held that by virtue of explanation 1 to clause (iv) of Rule 14 (b) of TNSPSS 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".

5.The person, who had selected for the uniformed services has to be screened carefully. If there is any doubt in respect of the character and antecedents, the decision taken by the selection committee is final and there cannot be any judicial review in this regard. The writ petitioner had suppressed the fact regarding the registration of a criminal case against him in his application for recruitment to the post of Grade II Police Constable and further his very involvement is also a ground for rejection as per the selection committee. This Court is of an opinion that the reasons given in the order impugned is certainly convincing and there is no infirmity as such.

6.Accordingly, the writ petition is devoid of merits and stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/

Assistant Registrar (T&P)

/True copy/

Sub Assistant Registrar

To

1.The Director General of Police,
Head Quarters Office,
Chennai.

2.The Superintendent of Police,
Thanjavur.

+1cc to M/s.Special Government Pleader,SR.No. 52482

W.P (MD) No.7625 of 2013
28.02.2018

MM

KK/JC/28.03.2018/SAR-1/3P-4C