

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2019

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.803 of 2019

V.Marikumar

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Petitioner

Vs

1.The Chairman

Tamil Nadu Uniformed Services Recruitment
Board No.807 P.D.V. Sengalvaraya Naicker
Maligai Anna Salai Chennai - 2.

2.The Director General of Police

Kamarajar Salai Mylapore Chennai - 4.

3.The Deputy Director

Fire and Rescue Services Department
Rukumani Lashmipathi Salai, Egmore
Chennai -600 008.

4.The Additional Director General of Police (Prison)
and Inspector General of Prisons, Whannels Road
Egmore, Chennai-600 008.

Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Mandamus directing the respondents to consider the representation of the petitioner dated 18.09.2018 in accordance with the order passed by the Division Bench of the Madras High Court in WA.No.472/2013 reported in 2018-5LW-150 and appoint him in the post of Grade-II Police constable/jail Wardens/fireman within a time frame fixed.

For Petitioner : M/s.Karl Marx

For Respondent : Mr.V.Kadhirvelu,
Special Government Pleader - for R1

Mr.A.N.Thambidurai, Special Govt.Pleader -
for R2 to R4

O R D E R

Petitioner applied for the post of Grade II Police Constable / Jain Wardens / Fireman in pursuance to the notification issued by the first respondent for the year 2012-13. He was provisionally selected, but his candidature was rejected citing the pendency of the criminal case, by the proceedings dated 21.01.2013. Challenging the said rejection order, the petitioner filed a writ petition in W.P.(Md) No.2544 of 2013 and this Court, by an order dated 26.03.2013 set aside the rejection order and the writ appeal in W.A.(Md) No.821 of 2014, filed by the respondents was dismissed by an order dated 24.07.2017, remitting the matter back for fresh consideration. In the meantime, the petitioner was acquitted in the criminal case vide order date 08.10.2015. However, the second respondent, by an order dated 26.12.2017, rejected the candidature of the petitioner for the post of Grade II Police Constable. Aggrieved by the same, the petitioner has filed the present writ petition seeking appropriate relief.

2. Learned counsel for the petitioner relies on the judgment of the Division Bench of this Court dated 24.04.2018 made in W.A.472 of 2013, wherein this Court has followed the order passed by the Supreme Court in Deputy Inspector General of Police and another Vs.S.Samuthiram reported in (2013) 1 S.C.C.598, wherein the Honourable Supreme Court has held that,

"When the accused is acquitted after full consideration of prosecution evidence and that the prosecution has miserably failed to prove the charge levelled against the accused, it can possibly be said that the accused was "Honourably Acquitted"."

Relying on the aforesaid judgment, the learned counsel for the petitioner submits that the petitioner is eligible to be considered in view of the acquittal in the criminal case and in the light of the order of the Division Bench this Court in the aforesaid decision in W.A.No.472 of 2013.

3. Mr.Kadhirvelu, learned Special Government Pleader takes notice on behalf of the first respondent and Mr.A.N.Thambidurai, learned Special Government Pleader takes notice on behalf of the other respondents.

4. In view of the limited relief sought for during arguments, this Court is of the view that it is not necessary to dwell into the merits of the issue, but it would suffice to direct the respondents to consider the representation of the petitioner and pass orders on the same within a particular time frame.

5. In the above circumstances, this writ petition is disposed of directing the respondents to consider the representation of the petitioner dated 19.09.2018 in the light of the order passed by the Division Bench of this court in W.A.No.472 of 2013, and pass orders thereon, in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CS-IV)

//True copy//

Sub Assistant Registrar

To

- 1.The Chairman
Tamil Nadu Uniformed Services Recruitment
Board No.807 P.D.V. Sengalvaraya Naicker
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- 4.The Additional Director General of Police (Prison)
and Inspector General of Prisons, Whannels Road
Egmore, Chennai-600 008.

+1cc to Mr.Karl Marx, Advocate SR.No.2550

+1cc to Government Pleader SR.No.3268

RR(CO)
GMY(15/02/2019)

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