

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.02.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.3320 of 2019

P.Senguttuvan

..Petitioner

vs

1. The Chairman
The Tamil Nadu Uniform Services
Recruitment Board
Chennai - 600 008.
2. The Director General of Police
Santhome High Road, Chennai.
3. The District Superintendent of Police
Cuddalore District, Cuddalore.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent pertaining to his Na.Ka.No.A4/333/AR/2017-18 dated 09.10.2017 and quash the same and direct the 3rd respondent to appoint the petitioner as constable Grade-II based on his merit.

For Petitioner: Mr.M.Selvam

For Respondent: Mr.V.Kathirvelu,
Special Government Pleader
for R1
Mr.A.N.Thambidurai
Special Government Pleader for R2 & R3

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O R D E R

The order of rejection, rejecting the claim of the writ petitioner for appointment to the Post of Grade-II Police Constable in Tamil Nadu Police Service is under challenge in the present writ petition.

2.Pursuant to the recruitment notification issued by the respondent for selection to the Post of Grade-II Police Constable, the writ petitioner submitted his application and

participated in the process of selection. The writ petitioner was successful in the written examination and had undergone Physical Efficiency Test and the Endurance Test. The writ petitioner was successful in all the tests and however, the case of the writ petitioner was not considered for appointment to the Post of Grade-II Police Constable. Subsequently, the order impugned dated 09.10.2017 was issued by the Superintendent of Police, Cuddalore District, stating that on verification of antecedents and character, it was found that the petitioner had involved in a criminal case registered in Crime No.120/2013 of Naduveerapattu Police Station under Sections 294(b), 341, 324, 326, 427 of Indian Penal Code.

3.The writ petitioner was acquitted on the ground of benefit of doubt through judgment dated 02.08.2014. Based on that, the selection of the writ petitioner was cancelled and he was not appointed. Thus, the writ petitioner is constrained to move the present writ petition.

4.The learned counsel appearing on behalf of the respondents opposed the contentions raised on behalf of the writ petitioner by stating that the character and antecedent of the writ petitioner had been verified by conducting enquiries, it was found that the writ petitioner had involved in a criminal case and subsequently, acquitted only on the ground of benefit of doubt and therefore, the competent authorities formed an opinion that his antecedent and character is not satisfactory and accordingly, rejected the case of the writ petitioner for appointment to the Post of Grade-II Police Constable.

5.The petitioner mainly on the ground that he was acquitted in the criminal case and therefore, he must be appointed in the post of Grade II Police Constable.

6.This Court is of an opinion that mere acquittal in the criminal case is not a ground for claiming appointment, more specifically, to Uniformed Services. Character, integrity and honesty are of paramount importance for the purpose of appointing a person in Uniformed services. The Apex Court of India as well as this Court emphasized and reiterated that a men of doubtful character or integrity can never be appointed in Uniformed services. Thus, verification of character and antecedents are prescribed in the very rules itself. While, undertaking the process of selection, the authorities competent are bound to verify the antecedents and character of the persons though the candidates were successful in the process of selection. If the character and antecedents are satisfactory, then the authorities competent are empowered to reject the selection of the writ petitioner.

7. In the present case on hand, on verification, it was found that the writ petitioner had involved in a criminal case though the criminal case ended with an order of acquittal. The order of acquittal was granted only based on the benefit of doubt and therefore, the case of the writ petitioner cannot be considered for appointment. This apart, even at the time of submission of application for participating in the recruitment process, the writ petitioner has suppressed the facts regarding the registration of a criminal case against him. Suppression of facts in the application is also a ground for rejection of the candidate from the process of selection. The said principles are reiterated in the case of Union Territory, Chandigarh, Administration and others Vs. Pradeep Kumar and another in Civil Appeal No.67 of 2018 and the relevant paragraphs 16, 17 & 18 are extracted hereunder:-

"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.

18. In the result, the impugned judgment is set aside and the appeals are allowed. The cancellation of candidature of the respondents is upheld. No costs."

8.This apart, in the case of Commissioner of Police, New Delhi and another Vs. Mehar Singh in Civil Appeal No.4842 of 2013 and the relevant paragraphs 27 to 31 are extracted hereunder:-

"27. The respondents are trying to draw mileage from the fact that in their application and/or attestation form they have disclosed their involvement in a criminal case. We do not see how this fact improves their case. Disclosure of these facts in the application/attestation form is an essential requirement. An aspirant is expected to state these facts honestly. Honesty and integrity are inbuilt requirements of the police force. The respondents should not, therefore, expect to score any brownie points because of this disclosure. Besides, this has no relevance to the point in issue. It bears repetition to state that while deciding whether a person against whom a criminal case was registered and who was later acquitted or discharged should be appointed to a post in the police force, what is relevant is the nature of the offence, the extent of his involvement, whether the acquittal was a clean acquittal or an acquittal by giving benefit of doubt because the witnesses turned hostile or because of some serious flaw in the prosecution, and the propensity of such person to indulge in similar activities in future. This decision, in our opinion, can only be taken by the Screening Committee created for that purpose by the Delhi Police. If the Screening Committee's decision is not mala fide or actuated by extraneous considerations, then, it cannot be questioned.

28. The police force is a disciplined force. It shoulders the great responsibility of maintaining law and order and public order in the society. People repose great faith and confidence in it. It must be worthy of that confidence. A candidate wishing to join the police force must be a person of utmost rectitude. He must have impeccable character and integrity. A person having criminal antecedents will not fit in this category. Even if he is acquitted or discharged in the criminal case, that acquittal or discharge order will have to be examined to see whether he has been completely exonerated in the case because even a possibility of his taking to the life of crimes poses a threat to the discipline of the police force. The Standing Order, therefore, has entrusted the task of taking decisions in these matters to the Screening Committee. The decision of the Screening Committee must be taken as final unless it is mala fide. In recent times, the image of the police force is tarnished.

Instances of police personnel behaving in a wayward manner by misusing power are in public domain and are a matter of concern. The reputation of the police force has taken a beating. In such a situation, we would not like to dilute the importance and efficacy of a mechanism like the Screening Committee created by the Delhi Police to ensure that persons who are likely to erode its credibility do not enter the police force. At the same time, the Screening Committee must be alive to the importance of trust reposed in it and must treat all candidates with even hand.

29. The Screening Committee's proceedings have been assailed as being arbitrary, unguided and unfettered. But, in the present cases, we see no evidence of this. However, certain instances have been pointed out where allegedly persons involved in serious offences have been recommended for appointment by the Screening Committee. It is well settled that to such cases the doctrine of equality enshrined in Article 14 of the Constitution of India is not attracted. This doctrine does not envisage negative equality (Fuljit Kaur). It is not meant to perpetuate illegality or fraud because it embodies a positive concept. If the Screening Committee which is constituted to carry out the object of the comprehensive policy to ensure that people with doubtful background do not enter the police force, deviates from the policy, makes exception and allows entry of undesirable persons, it is undoubtedly guilty of committing an act of grave disservice to the police force but we cannot allow that illegality to be perpetuated by allowing the respondents to rely on such cases. It is for the Commissioner of Police, Delhi to examine whether the Screening Committee has compromised the interest of the police force in any case and to take remedial action if he finds that it has done so. Public interest demands an indepth examination of this allegation at the highest level. Perhaps, such deviations from the policy are responsible for the spurt in police excesses. We expect the Commissioner of Police, Delhi to look into the matter and if there is substance in the allegations to take necessary steps forthwith so that policy incorporated in the Standing Order is strictly implemented.

30. Our attention is drawn to certain orders of this Court where, according to the respondents, special leave petitions filed by the State, arising out of similar fact situations, have been dismissed. It is not necessary for us to state that in limine dismissal of special leave petition does not mean that this Court has affirmed the judgment or the action impugned therein. The order rejecting the special leave petition

at the threshold without detailed reasons does not constitute any declaration of law or a binding precedent. This submission is, therefore, rejected.

31. In the ultimate analysis, we are of the view that the opinion formed by the Screening Committee in both these cases which is endorsed by the Deputy Commissioner of Police (Recruitment), Delhi, that both the respondents are not suitable for being appointed in the Delhi Police Force does not merit any interference. It is legally sustainable. The Tribunal and the High Court, in our view, erred in setting aside the order of cancellation of the respondents' candidature. In the circumstances, the appeals are allowed. The orders of the Delhi High Court impugned in both the appeals are set aside. The cancellation of candidature of the respondents - Mehar Singh and Shani Kumar is upheld."

9. In view of the judgments of the Hon'ble Supreme Court of India cited supra, and in view of the fact that the writ petitioner had involved in a criminal case and acquitted on benefit of doubt, is the decision taken by the authorities to reject the selection of the writ petitioner is in accordance with law and there is no infirmity as such.

10. Thus, the writ petition is devoid of merits and stands dismissed. However, there shall be no order as to costs.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

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To

1. The Chairman

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Recruitment Board
Chennai - 600 008.

2. The Director General of Police

Santhome High Road, Chennai.

3. The District Superintendent of Police
Cuddalore District, Cuddalore.

+1 CC to Mr. M. Selvam, Advocate sr 9590.

+1 CC to Govt. Pleader sr 10207.

W.P.No.3320 of 2019

KK (CO)

SP (22/02/2019)