

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2019

CORAM:

THE HON'BLE MR.JUSTICE M.GOVINDARAJ
W.P.NOS.21831 AND 21832 OF 2010

S.Chitrarasan ... Petitioner in both WPs'

Vs.

1.The State of Tamil Nadu
Rep. by its Secretary
Home Department
Fort St. George, Chennai - 600 009.

2.The Director General of Police
Chennai - 600 004.

3.The Chairman
Tamil Nadu Uniformed Service
Recruitment Board
Chennai - 600 002.

... Respondent Nos.1 to 3
in both WPs'

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the entire records connected with the impugned order in No.Na.Ka.No.049742/Niyamanam 1(2) 2010-2 dated 06.04.2010 and Na.Ka.No.030029/Niamanam 1(2) 2009, dated 19.10.2009 respectively, passed by the 2nd respondent and quash the same and further direct the respondents 1 and 2 to appoint the petitioner as Grade II Constable.

For Petitioner : Mr.S.N.Ravichandran
For Respondents: Mr.I.Sathish
Additional Government Pleader

COMMON ORDER

The petitioner in both the writ petitions are same. He participated in the selection for Grade - II Police Constable conducted by the third respondent in the year 2008. As per Rule

14(b) of the Tamil Nadu Special Police Subordinate Service Rules, 1978, 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.

2. In the instant case, the petitioner was involved in a Criminal Case in Crime No.8 of 2008 on the file of Inspector of Police, Oomangalam Police Station, Cuddalore District. Later, the Calender Case in C.C.No.251 of 2008 was ended in acquittal by order dated 06.02.2009. The reason for acquittal recorded was that the parties have compromised between themselves and that the prosecution witnesses have turned hostile and hence, the petitioner was acquitted under Section 248(1) of Criminal Procedure Code. Thereafter, the petitioner had participated in the selection held in 2009, in which, he has informed in his application that he did not involve in any offence. In respect of selection conducted for the year 2007-2008, by order dated 19.10.2009, the second respondent has not selected the petitioner, in view of his involvement in the criminal case. For the subsequent selection for the year 2008-2009, the second respondent, by order dated 06.04.2010, has not selected the petitioner for suppression of involvement in the criminal case.

3. In the meanwhile, the petitioner has filed a Criminal Revision Case against the order passed in C.C.No.251 of 2008 dated 06.02.2009 on the file of Judicial Magistrate, Neyveli. This Court, by its order dated 28.02.2011 has declared that the acquittal was not one under benefit of doubt, but it is one of honourable acquittal.

4. Now that the petitioner relies on Explanation-II of Rule 14(b) of the Tamil Nadu Special Police Subordinate Service Rules, 1978. According to him, he is acquitted from the criminal case and hence, he is entitled to be considered and shall be given appointment.

5. The writ petitions were filed in the year 2010 and the respondents have also filed counter affidavit dated 26.10.2010. It proceeded on the basis that the petitioner fall within Explanation-I to clause (iv) of Rule 14(b) of the Tamil Nadu Special Police Subordinate Service Rules, 1978. But subsequently, on 28.02.2011, this Court has declared that the petitioner was Honourably acquitted and therefore, in the present circumstances, the respondents have to consider the candidature of the petitioner in the light of the order passed in Crl.R.C.No.1327 of 2010 dated 28.02.2011.

6. In view of the same, both the writ petitions are disposed of with a direction to the respondents to consider the

candidature of the petitioner in the light of the order passed in CrI.R.C.No.1327 of 2010 dated 28.02.2011 and pass appropriate orders, in accordance with law. This exercise shall be completed by the respondents within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

TK
To

1.The Secretary to Government
Government of Tamil Nadu
Home Department
Fort St. George,
Chennai - 600 009.

2.The Director General of Police
Chennai - 600 004.

3.The Chairman
Tamil Nadu Uniformed Service
Recruitment Board
Chennai - 600 002.

+1cc to Mr.S.N.Ravichandran , Advocate SR.No. 106314
+1 cc to Government Pleader Sr.No. 106769

W.P.NOS.21831 AND 21832 OF 2010

A.SK(06/02/2020)