

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2019

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.4218 of 2018
and
W.M.P.Nos.5190 & 5191 of 2018

R.Ragavendran

... Petitioner

Vs

1.The Tamil Nadu Uniform
Services Recruitment Board,
(TNUSRB) represented by
the Member Secretary
Old Commissioner of Police,
Campus, Pantheon Road,
Egmore, Chennai - 600 008.

2.The Director General of Police,
Dr.Radhakrishnan Road, Mylapore,
Chennai - 600 004.

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

... Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the order of the 3rd respondent namely, the Superintendent of Police, Krishnagiri District, Krishnagiri in reference Na.Ka.No.A2/15484/Ku.Va.02/2017 dated 14.10.2017 and quash the same and consequently direct the respondents to select and appoint the petitioner to the post of Grade-II Police Constable within a time frame to be stipulated by this Court.

For Petitioner : Mr.N.E.A.Dinesh

For Respondents : Mr.V.Kathirvelu
Special Government Pleader
for R1

: Mr.A.N.Thambidurai
Special Government Pleader
for R2 and R3

O R D E R

The non-selection of the writ petitioner for appointment to the post of Grade-II Police Constable vide the impugned order issued by the respondent in proceedings dated 14.10.2017 is under challenge in the present writ petition.

2. Pursuant to the recruitment notification, the writ petitioner participated in the process of selection for appointment to the post of Grade-II Police Constable in Tamil Nadu Police Services. The writ petitioner was successful in the written examination and thereafter, participated in the physical eligibility test, endurance test and other tests conducted by the respondents. However, the name of the writ petitioner was not considered for appointment and an order was passed by the Superintendent of Police, Krishnagiri District in proceedings dated 14.10.2017, stating that, as against the writ petitioner, a criminal case was registered in Maharajakadal Police Station Crime No.73 of 2014 for the offences punishable under Sections 341, 294(b) IPC r/w. Section 4 of Women Harassment Act.

3. The learned counsel for the writ petitioner states that the writ petitioner was acquitted from the criminal charge and therefore, he is entitled for appointment to the post of Grade-II Police Constable.

4. The learned Special Government Pleader appearing on behalf of the respondents states that, undoubtedly, the writ petitioner was acquitted from the criminal case, however, the order of acquittal was on the basis of benefit of doubt. The learned Special Government Pleader further contended that the writ petitioner has suppressed the fact regarding the registration of the criminal case against him in the application form submitted by him, pursuant to the recruitment notification. Thus, this case deserves to be rejected, also on the ground of suppression of facts.

5. Considering the arguments of the respective learned counsel appearing on behalf of the parties, this Court is of an opinion that, suppression of material facts in the application by the candidate aspiring to secure public employment is a disqualification and rejection of such application is in accordance with law and there is no infirmity. A candidate who suppresses the material facts in his application deserves no consideration at all.

6. In the present case on hand, the writ petitioner had suppressed the facts in relation to the registration of a criminal case against him, more specifically, under Indian Penal

Code and Women Harassment Act. This apart, mere acquittal from a criminal case will not confer any right on the selected candidate to seek appointment. The recruitment is for uniformed services and the character and antecedence of the candidates are of paramount importance and the special rules also contemplate the verification of the antecedence and character of the candidates before appointing them to the uniform services. The authorities competent arrived at a conclusion that the character and antecedence of the writ petitioner is not satisfactory and therefore, rejected the candidature by issuing the impugned order.

7. The legal principles in this regard are settled by this Court, as well as by the Hon'ble Supreme Court of India. This Court passed an order in W.P.No.7606 of 2017 dated 21.04.2017 and the relevant paragraphs are extracted hereunder.

"23. The submission of Mr. Lakshmi Narayanan, the learned counsel for the petitioner, that this Bench has earlier considered the case of similar facts on 08th March, 2017, we are of the opinion that all the aspects in this regard were meticulously considered with reference to the principles laid down by the Honourable Apex Court of India. We would like to quote certain paragraphs of the said Judgment to re-emphasize the views expressed by us in earlier Judgment.

9. Thus, the matter came to be considered by a Bench of Three Judges in Avatar Singh Vs. Union of India [reported in 2016 (8) SCC 471]. After reviewing all the earlier cases including the one in Daya Shankar Yadav Vs. Union of India [reported in 2010 (14) SCC 103] and State of West Bengal Vs. S.K. Nazrul Islam [reported in 2011 (10) SCC 184], the following principles have been settled by the Larger Bench in Paragraph 34 of the Judgment in Avatar Singh:

"No doubt about it that verification of character and antecedents is one of the important criteria to assess suitability and it is open to employer to adjudge antecedents of the incumbent, but ultimate action should be based upon objective criteria on due consideration of all relevant aspects."

24. We have considered the legal aspects dealt with by the Hon'ble Apex Court, in the case of Daya Shankar Yadav in Paragraph Nos. 15 & 21 are extracted below:

"15. When an employee or a prospective employee

declares in a verification form, answers to the queries relating to character and antecedents, the verification thereof can therefore lead to any of the following consequences:-

(a) If the declarant has answered the questions in the affirmative and furnished the details of any criminal case (wherein he was convicted or acquitted by giving benefit of doubt for want of evidence), the employer may refuse to offer him employment (or if already employed on probation, discharge him from service), if he is found to be unfit having regard to the nature and gravity of the offence/crime in which he was involved.

(b) On the other hand, if the employer finds that the criminal case disclosed by the declarant related to offences which were technical, or of a nature that would not affect the declarant's fitness for employment, or where the declarant had been honourably acquitted and exonerated, the employer may ignore the fact that the declarant had been prosecuted in a criminal case and proceed to appoint him or continue him in employment.

(c) Where the declarant has answered the questions in the negative and on verification it is found that the answers were false, the employer may refuse to employ the declarant (or discharge him, if already employed), even if the declarant had been cleared of the charges or is acquitted. This is because when there is suppression or non disclosure of material information bearing on his character, that itself becomes a reason for not employing the declarant.

(d) Where the attestation form or verification form does not contain proper or adequate queries requiring the declarant to disclose his involvement in any criminal proceedings, or where the candidate was unaware of initiation of criminal proceedings when he gave the declarations in the verification roll/attestation form, then the candidate cannot be found fault with, for not furnishing the relevant information. But if the employer by other means (say police verification or complaints etc.) learns about the involvement of the declarant, the employer can have

recourse to courses (a) or (b) above."

The judgment in Avtar Singh has reiterated approvingly these very principles.

"21.If the object of the query is to ascertain the antecedents and character of the candidate to consider his fitness and suitability for employment, and if the consequence of a wrong answer can be rejection of his application for appointment, or termination from service if already appointed, the least that is expected of the employer is to ensure that the query was clear, specific and unambiguous. Obviously, the employer cannot dismiss/discharge/terminate an employee, for misunderstanding a vague and complex question, and giving a wrong answer. We do hope that the CRPF and other uniformed services will use clear and simple questions and avoid any variations between the English and Hindi Versions. They may also take note of the fact that the ambiguity and vague questions will lead to hardship and mistakes and make the questions simple, clear and straight forward. Be that as it may."

25.In paragraph 26 of the Judgment, we have unambiguously and in clear terms expressed our firm opinion as under:

26.we are, therefore, of the opinion that any attempt of suppression of material facts relating to the involvement of the candidate in any criminal case either before the process of recruitment is initiated or during the process of selection or even thereafter would squarely dis entitle the candidature of such a person to be taken into account, leading to his appointment in the service. Larger public interest demands that no person, who has been involved in a criminal case, but suppressed to disclose such information, is entitled to be appointed to the service.

8.The Hon'ble Supreme Court of India in the case of Union Territory, Chandigarh Administration and ors. v. Pradeep Kumar and another [Civil Appeal No.67 of 2018] on 08.01.2018 held as follows :

'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.''

9. In view of the judgment cited supra, this Court is of an opinion that the writ petitioner, who had suppressed the material facts in the application in respect of his involvement in a criminal case, is not entitled to get the relief as such sought for in the present writ petition.

Therefore, there is no infirmity in respect of the impugned order passed by the third respondent. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mkn

To

1.The Member Secretary
Tamil Nadu Uniform Services
Recruitment Board (TNUSRB),
Old Commissioner of Police Campus,
Pantheon Road,
Egmore, Chennai - 600 008.

2.The Director General of Police,
Dr.Radhakrishnan Road, Mylapore,
Chennai - 600 004.

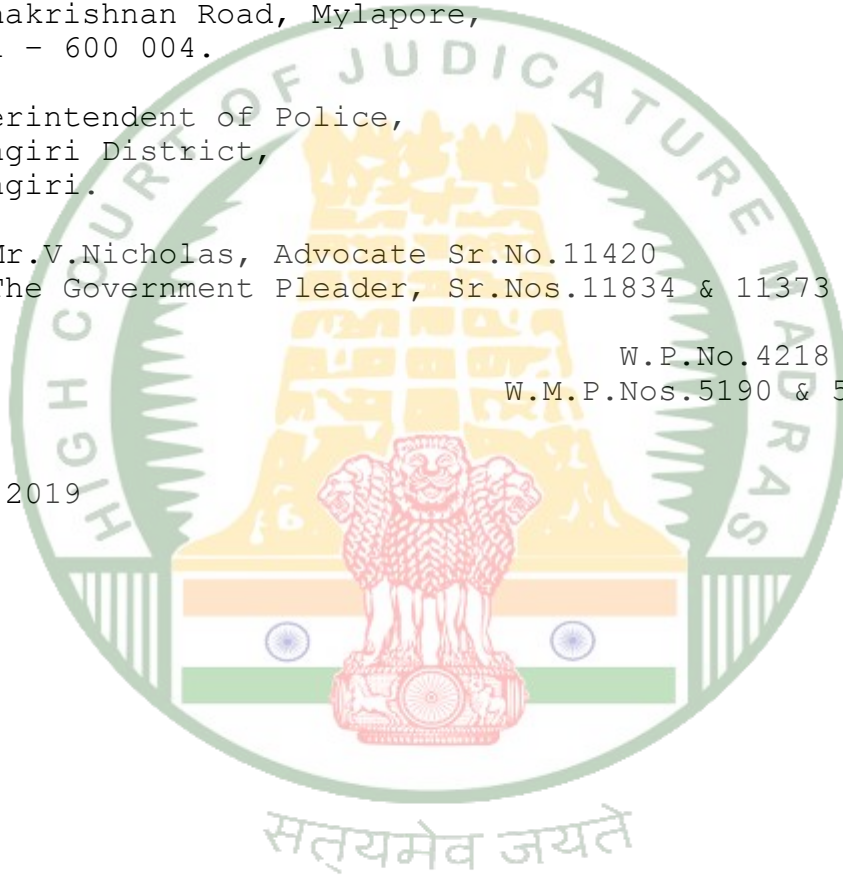
3.The Superintendent of Police,
Krishnagiri District,
Krishnagiri.

+1 cc to Mr.V.Nicholas, Advocate Sr.No.11420

+1 cc to The Government Pleader, Sr.Nos.11834 & 11373

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