

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.02.2019

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.3867 of 2019

and

WMP.No.4295 of 2019

J.Senthil

... Petitioner

...Vs...

1. The State of Tamil Nadu,
Rep. by its Secretary,
Department of Home,
Fort St.George,
Chennai - 600 009.
2. The Chairman,
The Uniform Recruitment Board,
Chennai-600 002.
3. The District Superintendent of Police,
Dharmapuri District,
Dharmapuri.

.... Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records made in impugned order C.No.A3/3440/2013 dated 21.08.2018 passed by the District Superintendent of Police, Dharmapuri the 3rd respondent herein and quash the same as illegal and direct the respondents to appointment the petitioner as Grade-II Police Constable as per order of the Hon'ble High Court Division Bench of this Court in W.A.No.632 of 2017 dated 23.11.2017.

For Petitioner

For Respondent R2

For Respondents 1&3

: Mr.R.Sankarasubbu

: Mrs.Narmadha Sampath

Addl.Advocate General

Assisted by, Mr.V.Kathirvelu,

Special Government Pleader

: Mr.D.Suriya Narayanan

Addl.Govt.Pleader

O R D E R

Appointment can never be construed as a legal right of the candidate, who participated in the process of selection. Appointment per se is not a right. Mere selection would not confer any right on the candidate, to seek an order of appointment in the absence of establishing a right with reference to the rules in force.

2. The order of rejection dated 21.08.2018, in relation to the claim of the writ petition for appointment to the post of Grade-III Police Constable in Tamil Nadu Police Subordinate Service is under challenge in the present writ petition.

3. The learned counsel for the writ petitioner vehemently contended that the writ petitioner who studied up to 12th standard submitted his application for recruitment to the post of Grade-III Police Constable, based on the notification issued by the respondent. He participated in the process of selection during the year 2012 and was successful in the written examination and subsequent physical verification Test, Endurance Test and Medical Examination.

4. The learned counsel for the writ petitioner states that, the writ petitioner belongs to the Schedule Caste Community and applied under the quota reserved for Schedule Caste Community. The writ petitioner was not selected on account of the fact that he has suppressed the material facts and further, the Competent Authorities found that his character and antecedent is not satisfactory.

5. Earlier the writ petitioner approached this Court and the matter went up to the Hon'ble Division Bench and an order was passed on 23.11.2017 as follows:-

"14. We are of the opinion that verification of character and antecedents is one of the important criteria to assess suitability, at the same time, the minor indiscretions made by young people required to be condoned rather than to brand them as criminals for the rest of their lives and it is open to the employer to adjudge antecedents of the incumbent, but ultimate action should be based upon objective criteria on due consideration of all relevant aspects, whereas, in the present case, the appellants, without looking into the materials in a proper perspective, have mechanically acted upon. The learned Single Judge after noticing all the facts and on analysing the factual and legal position, has rightly passed the order, which is impugned in these writ appeals. We find no error or irregularity in the

order so passed by the learned Single Judge.

15. However, the issues involved herein have already been elaborately dealt with by the Larger Bench of the Supreme Court in Avtar Singh (supra), wherein, before coming to the conclusion as noted above, it has been observed as follows:

#22. The employer is given #discretion# to terminate or otherwise to condone the omission. Even otherwise, once employer has the power to take a decision when at the time of filling verification form declarant has already been convicted/acquitted, in such a case, it becomes obvious that all the facts and attending circumstances, including impact of suppression or false information are taken into consideration while adjudging suitability of an incumbent for services in question. In case the employer come to the conclusion that suppression is immaterial and even if facts would have been disclosed would not have affected adversely fitness of an incumbent, for reasons to be recorded, it has power to condone the lapse. However, while doing so employer has to act prudently on due consideration of nature of post and duties to be rendered...#

16. In the light of the decision of the Larger Bench, we hereby modify the order passed by the learned Single Judge, directing the appellants to reconsider the case of the respondents, after affording an opportunity of personal hearing to them and strictly in terms of the guidelines laid down by the Larger Bench of the Supreme Court in Avtar Singh (supra) and take a decision in accordance with law, with regard to the appointment of the respondents for the post in question. Such an exercise shall be completed within a period of three months from the date of receipt of a copy of this judgment.

17. All the writ appeals are disposed in the above terms. No costs. Consequently, connected Miscellaneous Petitions are closed."

6. Based on the judgment of the Hon'ble Division Bench of this Court, the case of the writ petitioner was again considered by the Competent Authorities and accordingly, the impugned order dated 21.08.2018 has been issued. Challenging the said order the present writ petition has been filed.

7. The learned counsel for the writ petitioner states that the writ petitioner was a minor. He has involved in a minor

offence and subsequently, he was discharged. The criminal case was registered on account of certain disputes arosed during a local temple festival. Thus, the said case cannot held against the writ petitioner so as to deprive his right to secure the public employment, more specifically, the post of Grade-III, Police Constable.

8. The learned counsel for the writ petitioner further states that the writ petitioner was discharged from service and no other criminal case is pending against him. The writ petitioner is fully qualified for the appointment to the post of Grade-III, Police Constable. The Hon'ble Division Bench of this Court in its judgment dated 23.11.2017 held that the principles laid down in Avtar Singh Vs, Union of India by the Hon'ble Supreme Court of India is to be followed. The judgment of the learned Single Judge allowing the claim of the writ petitioner ought to have been considered by the Competent Authorities. Without considering the orders passed in the writ petition and without considering the guidelines issued by the by the Hon'ble Division Bench, the present impugned order has been passed.

9. The learned counsel for the writ petitioner further states that the writ petitioner was not at all heard before passing the impugned order. In the absence of any hearing to be provided to the writ petitioner pursuant of the judgment of Hon'ble Division Bench, the impugned order is liable to be scrapped. In this regard the learned counsel for the writ petitioner cited the judgment of the Hon'ble Supreme Court of India in the case of Commissioner of Police & Others Vs. Sandeep Kumar reported in (2011) 4 SCC 644 and the relevant paragraphs are extracted hereunder:-

"3. It is alleged that this is a false statement made by the respondent because he and some of his family members were involved in a criminal case being FIR No. 362 under Sections 325/34 IPC. This case was admittedly compromised on 18-1-1998 and the respondent and his family members were acquitted on 18-1-1998.

8. We respectfully agree with the Delhi High Court that the cancellation of his candidature was illegal, but we wish to give our own opinion in the matter. When the incident happened the respondent must have been about 20 years of age. At that age young people often commit indiscretions, and such indiscretions can often be condoned. After all, youth will be youth. They are not expected to behave in as mature a manner as older people. Hence, our approach should be to condone minor indiscretions made by young people rather than to brand them as criminals for the rest of their lives."

10. Citing the above judgment, it is stated that the due process of law had not been followed in the case of the writ petitioner. The writ petitioner further cited the case of Ram Kumar Vs. State of Uttar Pradesh reported in (2011) 14 SCC 709, the relevant paragraphs are extracted hereunder:-

"11. In the facts of the present case, we find that though Criminal Case No. 275 of 2001 under Sections 324/323/504 IPC had been registered against the appellant at Jaswant Nagar Police Station, District Etawah, admittedly the appellant had been acquitted by order dated 18-7-2002 by the Additional Chief Judicial Magistrate, Etawah.

12. On a reading of the order dated 18-7-2002 of the Additional Chief Judicial Magistrate it would show that the sole witness examined before the court, PW 1, Mr Akhilesh Kumar, had deposed before the court that on 2-12-2000 at 4.00 p.m. children were quarrelling and at that time the appellant, Shailendra and Ajay Kumar amongst other neighbours had reached there and someone from the crowd hurled abuses and in the scuffle Akhilesh Kumar got injured when he fell and his head hit a brick platform and that he was not beaten by the accused persons by any sharp weapon. In the absence of any other witness against the appellant, the Additional Chief Judicial Magistrate acquitted the appellant of the charges under Sections 323/34/504 IPC. On these facts, it was not at all possible for the appointing authority to take a view that the appellant was not suitable for appointment to the post of a police constable."

11. This apart, the learned counsel for the writ petitioner relied on the judgment of the Hon'ble Supreme Court of India in the case of Avtar Singh Vs. Union of India and said that the case of the writ petitioner had not been considered with reference to the principles laid down by the Apex Court in the case of Avtar Singh. For all these reasons, the writ petition is liable to be considered. The trial Court also categorically held that the writ petitioner is not liable for any criminal prosecution and accordingly, he was discharged from the charges. This being the factum, the writ petitioner is entitled for appointment.

12. The learned Additional Advocate General appearing on behalf of the respondent disputed the entire contentions raised on behalf of the writ petitioner by stating that the case of the writ petitioner was successful in the written examination and was allowed to participate in the process of eligibility test, endurance test and medical examination. During the verification

of character and antecedent, it was found by the Competent Authorities that a criminal case was registered against the writ petitioner and he was discharged from the charges. However, on verification of the character and antecedent of the writ petitioner, the Competent Authorities came to the conclusion that he has not fit to the appointment in the uniformed Service.

13. The learned Additional Advocate General with reference to the explanation Rule 13(e) of Special Rules for Tamil Nadu Special Police Subordinate Service contended that the writ petitioner is not eligible for appointment in view of the fact the character and antecedent of the writ petitioner is not satisfactory as per the assessment of the Competent Authorities. The Rule reads as under:-

"No persons shall be eligible for appointment to the service by direct recruitment unless satisfy the appointing authority and the details of norms are furnished.

ii) that the character and antecedent are such as the qualift him for such service.

iii) that he was not involved in any criminal case before Police verification.

Explanation 1: A person who is acquitted or discharge on benefit of doubt or due to the fact that complainant turned hostile shall be treated a person involved in a criminal case.

Expalanation 2: A person involved in a criminal case at time of Police verification and the case yet to be disposed of and subsequently ended in honorable acquittal or treated as mistake of fact shall be treated as non involvement in a criminal case and he can claimed right for appointment only be participating in the next recruitment

11) Taking in to consideration, all the facts and the law points discussed above, the plea of the petitioner for appointment to the post of Grade-III Police Constable could not be accepted as per various court decisions and explanation (1) to Rule 13(e) of Special Rules for Tamil Nadu Special Police Subordinate Service, hence his request is rejected."

14. Rule 14(b) of the Special Rules for Tamil Nadu Special Police Subordinate Service is extracted hereunder:-

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

i) he is sound health, active health and free form any bodily defect or infirmity unfitting him for such service and

ii) his character and antecedents are such as to

qualify him for such service; and

iii) such a person does not have more than one wife living and

iv) he has not involved in any criminal case before police verification

Explanation (1): A person who is acquired or discharged on benefit of doubt or due to the fact that the complainant turned hostiles shall be treated as a person involved in a criminal case.

Explanation (2): A person involved in criminal case at the time of police verification and the case has yet to be disposed of and subsequently ended in honorable acquittal or treated as a mistake of fact shall be treated as not involved in a criminal case and he can claim right for appointment only by participating in the next recruitment.

Similar rule available in TNPSS (i.e for AR/Taluk) candidates."

15. With reference to the above Rules, this Court is of an opinion that, character and antecedent are the essential qualifications for the purpose of appointing a candidate, more specifically, for uniformed services. There cannot be any compromise on this aspect in view of the fact that the Police personnel are handling arms and ammunitions and their character and antecedent are of paramount importance in the interest of the Police Administration.

16. In respect of the ground that no opportunity was given to the writ petitioner, the learned Additional Advocate General contended that, even in the impugned order reference (5), the writ petitioner himself submitted a petition on 03.04.2018 after the orders of the Hon'ble Division Bench. In respect of the opportunity to be provided, the petition submitted by the writ petitioner on 03.04.2018 had been taken in to consideration and the Authorities have dealt with the grounds raised by the writ petitioner in his petition. Thus, it cannot be said that the opportunity was denied in entirety. The opportunity was provided and the petition submitted by the writ petitioner dated 03.04.2018 had been considered by the Competent Authorities.

17. This Court is of an opinion that there cannot be any compromise in respect of the selection and appointment to the uniformed services. The Hon'ble Supreme Court of India also reiterated that the Rule in this regard must be followed scrupulously by the Authorities and there cannot be any compromise on verification of character and antecedent, since the nature of the job involves more responsibility and integrity. In respect of the case of the writ petitioner the Hon'ble Division Bench had dealt with the same in WP.No.7606 of

2017 dated 21.04.2017 and 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."

18. Even in a recent case, the Hon'ble Supreme Court of India in Civil Appeal.No.67 of 2018 in the case of Union Territory, Chandigarh Administration & Others Vs. Pradeep Kumar & another dated 08.01.2018 held as follows:-

Her Lordship Mrs.Justice R.Banumathi speaking for the bench is of the opinion that verification of character and antecedent are of paramount importance and this apart, the acquittal in a criminal case is not a conclusive of the suitability of the candidate in the concerned post. The principles are enumerated in the following paragraphs:-

"9. On 23.06.2010, the Inspector General of police, UT Chandigarh issued Standing Order No.44 of 2010 laying down the guidelines to consider cases of candidates selected in Chandigarh Police on having found involvement in criminal cases in the past. This standing order deals with the cases of candidates before issuance of appointment and after issuance of appointment and joining. Relevant portion of the said Guidelines reads as under:- "GUIDELINES (A) CASES BEFORE ISSUE OF APPOINTMENT (a) The candidature will be cancelled in case the candidate does not disclose the fact of his involvement and/or arrest in criminal case(s), complaint case(s), preventive proceedings etc. in the attestation form and the fact is subsequently found out from any verification report Page No. 6 of 15 received from the District authorities or for any/other source. (b) If a candidate has disclosed his involvement and/or arrest in criminal cases(s), complaint case(s), preventive proceedings etc. the case will be referred to the Screening Committee to assess his suitability for appointment in Chandigarh Police irrespective of the fact that the case is under investigation, trial or decided in conviction or acquittal." In Guideline 2(A)(b), it is prescribed that if a candidate has disclosed his involvement in some

criminal case in the attestation form then such case will be referred to Screening Committee to assess his suitability for appointment in Chandigarh Police irrespective of the fact that the case is under investigation, trial or decided in conviction or acquittal. In the present case, in all the cases of respondents, the aforesaid situation arises. On noticing the acquittal of the candidates, the cases of respondents were referred to Screening Committee. The Screening Committee carefully examined the cases of the respondents and the reasonings for their acquittal and the candidature of the respondents were rejected finding them not suitable.

10. The acquittal in a criminal case is not conclusive of the suitability of the candidates in the concerned post. If a person Page No. 7 of 15 is acquitted or discharged, it cannot always be inferred that he was falsely involved or he had no criminal antecedents. Unless it is an honourable acquittal, the candidate cannot claim the benefit of the case. What is honourable acquittal, was considered by this Court in Deputy Inspector General of Police and Another v. S. Samuthiram (2013) 1 SCC 598, in which this Court held as under:- "24. The meaning of the expression "honourable acquittal" came up for consideration before this Court in RBI v. Bhopal Singh Panchal (1994) 1 SCC 541. In that case, this Court has considered the impact of Regulation 46(4) dealing with honourable acquittal by a criminal court on the disciplinary proceedings. In that context, this Court held that the mere acquittal does not entitle an employee to reinstatement in service, the acquittal, it was held, has to be honourable. The expressions "honourable acquittal", "acquitted of blame", "fully exonerated" are unknown to the Code of Criminal Procedure or the Penal Code, which are coined by judicial pronouncements. It is difficult to define precisely what is meant by the expression "honourably acquitted". When the accused is acquitted after full consideration of prosecution evidence and that the prosecution had miserably failed to prove the charges levelled against the accused, it can possibly be said that the accused was honourably acquitted."

11. Entering into the police service required a candidate to be of good character, integrity and clean antecedents. In Commissioner of Police, New Delhi and Another v. Mehar Singh (2013) 7 SCC 685, the respondent was acquitted based on the compromise. This Court held that even though Page No. 8 of 15 acquittal was based on compromise, it is still open to the

Screening Committee to examine the suitability of the candidate and take a decision. Emphasizing upon the importance of character and integrity required for joining police force/discipline force, in Mehar Singh case, this Court held as under:- "23. A careful perusal of the policy leads us to conclude that the Screening Committee would be entitled to keep persons involved in grave cases of moral turpitude out of the police force even if they are acquitted or discharged if it feels that the acquittal or discharge is on technical grounds or not honourable. The Screening Committee will be within its rights to cancel the candidature of a candidate if it finds that the acquittal is based on some serious flaw in the conduct of the prosecution case or is the result of material witnesses turning hostile. It is only experienced officers of the Screening Committee who will be able to judge whether the acquitted or discharged candidate is likely to revert to similar activities in future with more strength and vigour, if appointed, to the post in a police force. The Screening Committee will have to consider the nature and extent of such person's involvement in the crime and his propensity of becoming a cause for worsening the law and order situation rather than maintaining it. In our opinion, this policy framed by the Delhi Police does not merit any interference from this Court as its object appears to be to ensure that only persons with impeccable character enter the police force. 24. We find no substance in the contention that by cancelling the respondents' candidature, the Screening Committee has overreached the judgments of the criminal court. We are aware that the question of co-relation between a criminal case and a departmental enquiry does not directly arise here, but, support can be drawn from the principles laid down by this Court in connection with it because the issue involved is somewhat identical, namely, whether to allow a person with doubtful integrity to work in the department. While the standard of proof in a criminal Page No. 9 of 15 case is the proof beyond all reasonable doubt, the proof in a departmental proceeding is preponderance of probabilities. Quite often criminal cases end in acquittal because witnesses turn hostile. Such acquittals are not acquittals on merit. An acquittal based on benefit of doubt would not stand on a par with a clean acquittal on merit after a full-fledged trial, where there is no indication of the witnesses being won over. In R.P. Kapur v. Union of India AIR 1964 SC 787 this Court has taken a view that

departmental proceedings can proceed even though a person is acquitted when the acquittal is other than honourable. 25. The expression "honourable acquittal" was considered by this Court in S. Samuthiram (2013) 1 SCC 598. In that case this Court was concerned with a situation where disciplinary proceedings were initiated against a police officer. Criminal case was pending against him under Section 509 IPC and under Section 4 of the Eve-Teasing Act. He was acquitted in that case because of the non-examination of key witnesses. There was a serious flaw in the conduct of the criminal case. Two material witnesses turned hostile. Referring to the judgment of this Court in RBI v. Bhopal Singh Panchal (1994) 1 SCC 541, where in somewhat similar fact situation, this Court upheld a bank's action of refusing to reinstate an employee in service on the ground that in the criminal case he was acquitted by giving him benefit of doubt and, therefore, it was not an honourable acquittal, this Court held that the High Court was not justified in setting aside the punishment imposed in the departmental proceedings. This Court observed that the expressions "honourable acquittal", "acquitted of blame" and "fully exonerated" are unknown to the Criminal Procedure Code or the Penal Code. They are coined by judicial pronouncements. It is difficult to define what is meant by the expression "honourably acquitted". This Court expressed that when the accused is acquitted after full consideration of the prosecution case and the prosecution miserably fails to prove the charges levelled against the accused, it can possibly be said that the accused was honourably acquitted. 33. So far as respondent Mehar Singh is concerned, his case appears to have been compromised. It was urged that acquittal recorded pursuant to a compromise should not be Page No. 10 of 15 treated as a disqualification because that will frustrate the purpose of the Legal Services Authorities Act, 1987. We see no merit in this submission. Compromises or settlements have to be encouraged to bring about peaceful and amiable atmosphere in the society by according a quietus to disputes. They have to be encouraged also to reduce arrears of cases and save the litigants from the agony of pending litigation. But these considerations cannot be brought in here. In order to maintain integrity and high standard of police force, the Screening Committee may decline to take cognizance of a compromise, if it appears to it to be dubious. The Screening Committee cannot be faulted for that. 35. 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 the trust reposed in it and must treat all candidates with an even hand." Page No. 11 of 15 The same principle was reiterated in *State of Madhya Pradesh and Others v. Parvez Khan* (2015) 2 SCC 591.

12. While considering the question of suppression of relevant information or false information in regard to criminal prosecution, arrest or pendency of criminal case(s) against the candidate, in *Avtar Singh v. Union of India and Others* (2016) 8 SCC 471, three-Judges Bench of this Court summarized the conclusion in para (38). As per the said decision in para (38.5), "In a case where the employee has made declaration truthfully of a concluded criminal case, the employer still has the right to consider antecedents, and cannot be compelled to appoint the candidate."

13. It is thus well settled that acquittal in a criminal case does not automatically entitle him for appointment to the post. Still it is open to the employer to consider the antecedents and examine whether he is suitable for appointment to the post. From the observations of this Court in *Mehar Singh and*

Parvez Khan cases, it is clear that a candidate to be recruited to the police service must be of impeccable character and integrity. A person having criminal Page No. 12 of 15 antecedents will not fit in this category. Even if he is acquitted or discharged, it cannot be presumed that he was honourably acquitted/completely exonerated. The decision of the Screening Committee must be taken as final unless it is shown to be mala fide. The Screening Committee also must be alive to the importance of the trust repose in it and must examine the candidate with utmost character.

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 Page No. 17 of 15 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.

"

19. Considering the legal principles enunciated in the judgment cited supra, this Court is of an undoubted opinion that, the writ petitioner was found not suitable for appointment to the post of Grade-II Police Constable by the Competent Authorities. The Judicial review in respect of such a decision of the Competent Authorities are certainly limited. The Constitutional Courts cannot enter into the arena of selection made by the Authorities, with reference to the merits and demerits of the candidates. Undoubtedly, if there is any perversity in the process of decision making, then alone the power of Judicial review can be exercised. The decision itself cannot be questioned in view of the fact that the materials and processes adopted for arriving such a decision is in accordance with the procedures and as per rules in force. When the Rules unambiguously stipulates that the verification of character and antecedent by the Competent Authority is an essential qualification and on verification of character and antecedent of the writ petitioner.

20. The Authorities came to the conclusion that the writ petitioner is not suitable for appointment to the post of Grade-II Police Constable. Such a decision cannot be interfered with by this Court for the writ petition. This being the legal

principles and the scope of judicial review under Article 226 of the Constitution of India, this Court has no hesitation in coming to the conclusion that there is no infirmity as such in respect of the order impugned passed by the respondents.

21. The Additional Advocate General brought to the notice of thi Court that the writ petitioner had suppressed the facts regarding the registration of criminal case in his application itself. For this the learned counsel for the writ petitioner states that the writ petitioner was unaware of the criminal case itself and therefore, he could not be in a position to state the same in the application. Since the petitioner had no knowledge about the criminal case he had not stated in the application.

22. May that it be, irrespective of the fact that the writ petitioner had suppressed the material facts in his application, now the Authorities have come to the conclusion that he is not suitable for appointment to the post of Grade-II Police Constable. Thus, this Court is of an opinion that the said decision cannot be interfered with. This apart, appointment can never be claimed as a matter of right. Only if there is any malpractices or corrupt activities, the process of appointment can be questioned and in the event of following the procedures, this Court is of an opinion that candidates who participated in the process of selection cannot claim either the selection or the appointment as a right.

23. Accordingly, the writ petition is devoid of merits and stands dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

सत्यमेव जयते
Sub Assistant Registrar

Pkn

To

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

WEB COPY

2. The Chairman,
The Uniform Recruitment Board,
Chennai-600 002.

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

+1cc to Mr.R.Sankarasubbu, Advocate SR.No.15010

+2cc to Government Pleader SR.No.15130,5152

W.P.No.3867 of 2019

SAI (CO)
GMY (19/03/2019)



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