

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2019

CORAM

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN
AND
THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU

W.A. Nos. 211 & 632 of 2016

1. The State rep. by
The Director General of Police,
Mylapore, Chennai 600 004.
2. The Superintendent of Police,
Krishnagiri District,
Krishnagiri.
3. The Chairman,
Uniform Service Recruitment Board,
Chennai 600 002. ..Appellants in / Respondents
both appeals

Vs.

Tamilazhagan ..Respondent
in W.A. No.211 of 2016 / Petitioner

Annamalai ..Respondent
in W.A. No.632 of 2016 / Petitioner

Prayer: Writ Appeals as against the order dated 22 March, 2013 in W.P. Nos. 650 & 1278 of 2013 respectively. These Writ petitions are filed under article 226 of the Constitution of India for issuance of a Writ in the nature of Certiorarified Mandamus calling for the records in (i) Na.Ka.No.A2/9245/2012 dated 13.12.12 (in WP.No.650/2013), (ii) Na.Ka.No.A2/9245/2012 dated 28/12/2012 (in W.P.No.1278/2012) respectively on the file of the Second Respondent herein and quash the same and consequently direct the respondents to recruit the petitioner as Grade-II Constable TamilNadu Special Police to secure the ends of Justice.

For Appellants :: Mrs.A. Srijayanthi
in both appeals Special Govt. Pleader

For Respondent
in both appeals :: Mr.R. Sankarasubbu

J U D G M E N T

(Judgment of the Court was delivered by K.K. SASIDHARAN,J)

The respondent in the concerned writ appeals along with others submitted applications for appointment to the post of Police Constable pursuant to the notification issued by the Tamil Nadu Uniformed Services Recruitment Board. The respondent in W.A. No. 211 of 2016 was involved in a criminal case. He was acquitted by the learned Judicial Magistrate No.1, Krishnagiri by judgment dated 22 October, 2010 by giving him the benefit of doubt. The respondent in W.A. No. 632 of 2016 was an accused in C.C. No. 123 of 2011 on the file District Munsif cum Judicial Magistrate, Uthangarai. He was also acquitted by giving him the benefit of doubt by judgment dated 28 December, 2012. However, their selection to the post of Police Constable was cancelled on account of their involvement in criminal case.

2. The learned Single Judge took up the writ petitions filed by the respondent in the concerned writ appeals along with similar writ petitions filed by other candidates. The writ petitions were allowed by common order dated 22 March, 2013. The learned Single Judge opined that the respondent in the respective appeals were acquitted prior to the initiation of selection process and their candidature ought not to have been cancelled by the Selection Board. The learned Single Judge issued a direction to the appellants to consider the question of their appointment by ignoring their alleged involvement in the criminal cases. The learned Single Judge by way of common order dated 22 March, 2013 considered 13 writ petitions and taking into account the facts of each case, directions were given to the Tamil Nadu Uniformed Services Recruitment Board.

3. It is a matter of record that the State challenged the common order in W.P. Nos. 3688, 3691, 2795, 3467, 3616 and 4278 of 2013 and 24279 of 2012 in W.A. Nos. 741, 663, 631, 632, 633, 634 and 635 of 2017 respectively. The Division Bench was pleased to dispose of the intra-court appeals by modifying the order passed by the learned Single Judge. The Division Bench directed the appellants to re-consider the case of the respondents therein after affording an opportunity of personal hearing and strictly in terms of the guidelines laid down by the Honourable Supreme Court in the decision rendered in Avtar Singh V. Union of India reported in (2016) 8 SCC 471. The writ petitions relating to the present respondents were also part of the common order passed by the learned Single Judge dated 22 March, 2013. The Division Bench was pleased to direct the appellants to re-consider the decision in respect of seven candidates.

4. In view of the binding judgment of the Division Bench dated 23 November, 2017 in the very same subject matter, it would not be possible for this Court to take a different view in the present appeals. Judicial discipline requires us to follow the judgment of the Division Bench on the very same subject matter, that too on the very same issue and relating to the very same selection. We are therefore of the view that the appeals should be disposed of in terms of the judgment of the Division Bench dated 23 November, 2017 in W.A. Nos. 741, 663, 631, 632, 633, 634 and 635 of 2017. The operative portion of the said judgment at paragraph No. 16 is extracted hereunder:

"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."

5. We direct the Tamil Nadu Uniformed Services Recruitment Board to consider the case of the respondent in the concerned writ appeals for appointment in the light of the law decided by the Honourable Supreme Court in Avtar Singh's case (cited supra) and taking into account similar directions given by the Division Bench of this Court in the judgment dated 23 November, 2017 in W.A. Nos. 741, 663, 631, 632, 633, 634 and 635 of 2017, extracted supra. The said exercise shall be completed within a period of three months from the date of receipt of a copy of this judgment.

6. The intra-court appeals are disposed of with the above directions. No costs.

Sd/-

Assistant Registrar (CS-V)

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Sub Assistant Registrar

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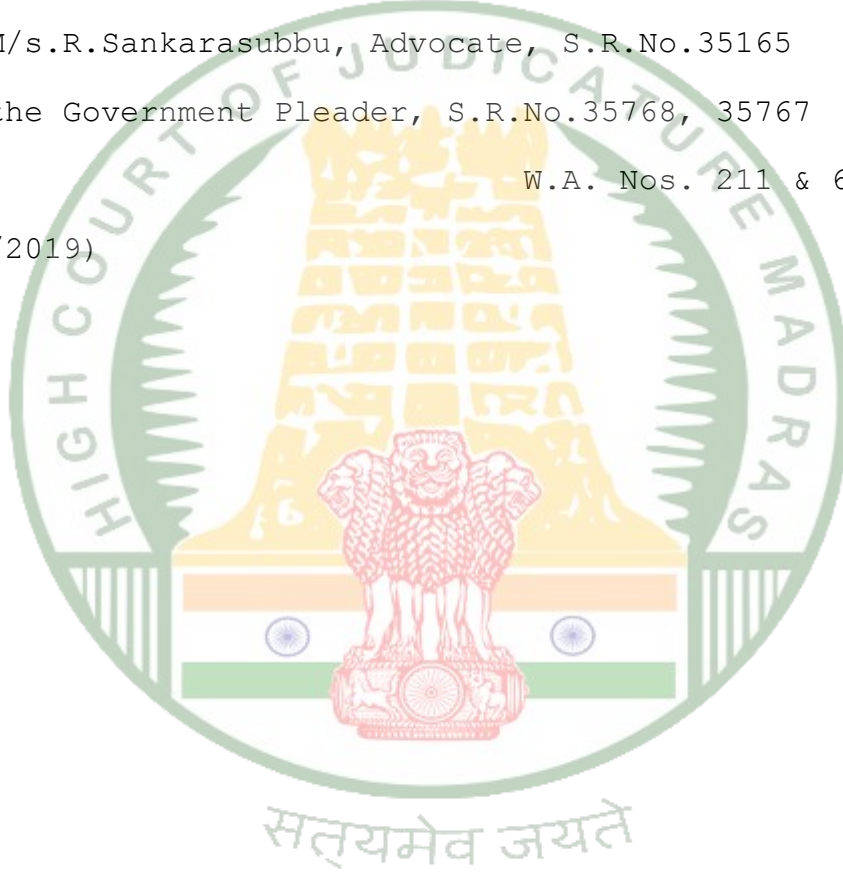
1. The Director General of Police,
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2. The Superintendent of Police,
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Krishnagiri.
3. The Chairman,
Uniform Service Recruitment Board,
Chennai 600 002.

+1 cc to M/s.R.Sankarasubbu, Advocate, S.R.No.35165

+1 cc to the Government Pleader, S.R.No.35768, 35767

W.A. Nos. 211 & 632 o f 2016

RSI (CO)
SSM(18/06/2019)



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