

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-1-2019

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

Writ Appeal No.2759 of 2018
a n d
C.M.P.No.17066 of 2018

S.Rajeshkumar Appellant / Petitioner

Vs

The Superintendent of Police
Villupuram District
O/o the Superintendent of Police
Villupuram Respondent / Respondent

Prayer:- Writ Appeal filed under Clause 15 of Letters Patent against the order dated 9.4.2018 passed in W.P.No.7879 of 2018.

Prayer in W.P.No.7879 of 2018:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, to call for the records pertaining to the Order of Refusal of the appointment of the petitioner to the post of Police Constable (Grade-2) by the Respondent herein vide his proceedings Na.Ka.No.A2/4500/2017, dated 16.03.2018 and quash the same and consequently direct the respondent herein to grant appointment to the petitioner to the above said post based on the petitioner's representation dated 28.02.2018 wherein this petitioner had requested the respondent herein to consider the case of the petitioner in light of the order as made by this Court in CrI.R.C.No.39/2018, dated 12.01.2018, wherein this Court had converted the 'order of acquittal' into an order of 'Honourable Acquittal' and further as per section 19 of the Juvenile Justice (Care & Protection of Children) Act, 2000, there is no disqualification attaching to a conviction of an offence on the petitioner/Juvenile and hence there is no question of 'suppression of facts' arisen and hence requested to grant appointment to the petitioner to the post of Police Constable (Grade-2) in Tamil Nadu Special Police Force, Police Department, Government of Tamil Nadu by the Respondent herein.

For appellants ... Mr.S.Vediappan

For respondents ... Mr.P.S.Sivashanmugasundaram,
Special Government Pleader

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J U D G M E N T

(made by S.MANIKUMAR, J.)

Challenge in this writ appeal is to the order of the writ court dated 9.4.2018 passed in W.P.No.7879 of 2018, by which the writ court declined the prayer sought for by the appellant.

2. The relief sought for in the writ petition is to call for the records pertaining to the Order of refusal of the appointment of the appellant to the post of Police Constable (Grade-2) by the respondent, vide proceedings Na.Ka.No.A2/4500/2017, dated 16.03.2018, to quash the same and consequently, for a direction to the respondent to grant appointment to the appellant to the abovesaid post, based on his representation dated 28.02.2018 wherein, he has requested the respondent to consider his case, in the light of the order made by this Court in Crl.R.C.No.39/2018, dated 12.01.2018, wherein this Court, converted an order of acquittal into one of order of 'Honourable Acquittal' and further as per section 19 of the Juvenile Justice (Care & Protection of Children) Act, 2000, there is no disqualification attached to conviction of an offence, on the appellant, who was a juvenile at the time of commission of offence, and hence there is no question of suppression of facts.

3. Pursuant to the notification for appointment to the post of Grade II Police Constable, appellant has submitted an application and participated in the process of selection for appointment to the said post. He passed in the written examination. Thereafter, was called for certificate verification, physical verification test, physical endurance test and medical examination. He succeeded in all the examinations and awaiting for his appointment. Respondent vide his proceedings Na.Ka.No.A2/4500/2017, dated 16.03.2018 rejected his candidature on the grounds that writ petitioner was involved in a criminal case registered by the Sub-Inspector of Police, Ulundurpet Police Station in Crime No.471 of 2013 under sections 294(b), 355, 353, 506(i) of the Indian Penal Code.

4. On account of registration of the criminal case, the selection committee found the appellant as not qualified for appointment to the post of Grade-II Police Constable. In paragraph 3 of the impugned order, it is stated that the writ petitioner has suppressed the fact of registration of the

criminal case. Therefore, according to the respondent, a candidate who has suppressed the material fact is not eligible for selection and appointment to the post of Grade-II Police Constable.

5. Before the writ court, it was the contention of the learned counsel for the appellant that at the time of commission of offence, he was only 17 years 3 months and 19 days old, and as such, he was arraigned as A3, was a 'Juvenile in conflict with law' and that he was acquitted, in the criminal case, as per section 19 of the Juvenile Justice (Care & Protection of Children) Act, 2000. Before the writ court, he contended that the registration of the criminal case, cannot be considered as a dis-qualification and further, the appellant was honourably acquitted and therefore, there is no suppression of fact arise.

6. Per contra, before the writ court, learned Special Government Pleader appearing for the respondent opposed the said contention by stating that the appellant had the history of a criminal case and further he has suppressed the fact in the application form itself, said suppression of the material fact in the application form is a ground for dis-qualification, as per the instructions provided to the candidates, in the application form itself. Therefore, the appellant is not entitled to be selected even on the ground that he has suppressed the fact in relation to registration of a criminal case against him. Learned Special Government Pleader argued that candidates who are having criminal case history and suppressing the material fact, are not eligible to be appointed as Grade-II Police Constable, which is an uniformed Police service.

7. Writ court, upon hearing the arguments of both sides, after considering the materials available on record and also placing reliance on a series of judgments of the Hon'ble Apex Court and various High courts, on 9.4.2018, passed the following order:

9. This Court is of an undoubted opinion that the candidate who has a criminal case back ground cannot be considered, more specifically for appointment to the post of Grade II Police Constable, which is an uniformed police service. In certain cases, Court can direct the authorities to reconsider the matter in the light of the Judgment of the criminal case, but in respect of the Police service and Judicial service, it is not desirable to issue any such direction.

10. Integrity and honesty is of utmost importance in the Police service, since it is an uniformed service so also in Judicial service. The

Hon'ble Supreme Court of India also emphasized that the antecedent character, criminal case history and other particulars ought to be carefully verified before appointing any persons in the Uniformed service or in the Judicial service.

11. In view of the respective pronouncement spelled out by the Hon'ble Apex Court of India, this Court again reiterated that the candidate having a criminal case history, though acquitted has to be screened in respect of the nature of involvement and related facts. Further, the mind set and intention of a person is also to be looked into through the manner in which he has stated the facts in various formats. Thus, the arguments advanced by the learned counsel appearing for the writ petitioner deserves no consideration in spite of the order of acquittal. The selection authority has got every right to reject the candidature on ascertaining the over all facts and circumstances in each case.

12. Thus, this Court is not inclined to reconsider the case of the writ petitioner, in view of the fact that it is a case of suppression of the material facts by the writ petitioner, even at the time of the submission of the application and participated in the selection process. Thus, the writ petition deserves no further consideration.

13. Accordingly, the writ petition stands dismissed. However, there is no order as to costs.

8. Aggrieved by the dismissal of the writ petition, appellant has filed the present writ appeal, on the following grounds:

1) Writ Court failed to note that the appellant had completed his 10th Standard in March, 2011 and thereafter studied Diploma Course. While the petitioner was studying 2nd year Diploma Course, the Station House Officer, Ulundurpettai Police Station, Villupuram District, registered a case in Crime no. 471/2013, under section 294(b), 355, 353 and 506(i) of IPC, based on a complaint from one Mrs. Devi, Village Assistant stating that on 15.10.2013, one Baskaran arraigned as A-1, Elumalai Arraigned as A-2 and appellant herein/RajeshKumar arraigned as A-3, had come to the office and scolded the complainant in filthy language and the 1st accused had attacked the complainant with his chappal/foot wear.

2) Writ Court failed to note that in the final report filed before the learned I Additional District Munsif cum Judicial Magistrate, the

appellant herein was charged with the offence under section 294(b) and 353 of IPC and the case was taken on file in C.C.No.12/2014 and the same was tried by the learned I Additional District Munsif cum Judicial Magistrate Court, Ulundurpettai, and the appellant herein was acquitted by order dated 11.3.2014.

3) Writ Court failed to note that the trial court, while passing the order has stated that the accused are acquitted based on benefit of doubt, as the prosecution witnesses, namely PW-1 to PW-3 had turned hostile and hence acquitted all the accused including the appellant herein.

4) Writ Court failed to note that on the date of alleged commission of offence i.e., on 15.10.2013, the age of the appellant was only 17 years 4 months as the date of birth of the appellant is 26.6.1996. Hence the appellant ought to have been treated only as a 'Juvenile in conflict with law'. However the Prosecution and the trial court had treated this appellant as an adult and the trial was completed without sending this appellant to the Juvenile Justice Board.

5) Writ Court failed to note that at the time of alleged commission of offence and trial before the Criminal Court the law in force was The Juvenile Justice (Care and Protection of Children) Act, 2000, which was now repealed by Act 2 of 2016, namely the Juvenile Justice (Care and Protection of Children) Act, 2015. As per Section 2(k) of The Juvenile Justice (Care and Protection of Children) Act, 2000, the word "Juvenile or Child" means a person who has not completed eighteenth year of age; "Juvenile in conflict with law" means a juvenile who is alleged to have committed an offence and has not completed eighteenth year of age as on the date of commission of such offence". सत्यमेव जयते

6) Writ Court failed to note that as per Section 19 of the Act, the appellant shall not suffer disqualification, if any, attaching to a conviction of an offence and as per Sub-section (2) of Section 19, the records of such conviction shall be removed after the expiry of the period of appeal or a reasonable period, hence the appellant cannot be denied selection. Thus there is no disqualification attaching to a conviction of an offence on the Appellant/Juvenile and hence there is no question of 'suppression of facts' had arisen in the case of the Appellant. The above proposition of law was approved by this Hon'ble High Court in W.P.

(MD) No.474/2013, (batch cases), which was followed in W.P.No.16771/2012, (batch cases) P.Mohan -Vs- The Director General of Police, by Hon'ble Justice Mr.D.Hariparanthaman by his Lordship's order dated 16.4.2013. Further in W.PJMDL No. 3130/2009, dated 20.9.2010 and in S.Karthikeyan - Vs- DGP, in W.P. (MD) No. 11660/2008, dated 4.12.2012.

7) Writ Court failed to note that a Criminal Revision was filed as against the order in C.C.No. 12/2014, dated 3.11.2014, on the file of the 1st Additional District Munsif Cum Judicial Magistrate, No.1, Ulundurpettai, Villupuram District in Crl.R.C.No.39/2018 and wherein the 'order of acquittal' was converted into an order of 'Honourable Acquittal' by its order dated 12.1.2018. Further the findings in the Revision are that the entire trial as against this appellant is vitiated and there is no impediment standing in the way of gainful public employment.

8) Writ Court failed to note that, after the order in the criminal revision, the appellant had sent a representation dated 28.2.2018 requesting to re-consider the case of this appellant in light of the judgment as made in the criminal revision Crl.R.C.No.39/2018 but the respondent had not granted the appointment on the reason that there is a 'suppression of material fact' since that the appellant had not mentioned about the criminal case in his application made to the post, is not correct since the 2nd respondent ought to have given an opportunity by conducting enquiry with this appellant and ought to have considered the case of this appellant as per section 19 of the Juvenile Justice Act, 2000, as held by the Hon'ble Supreme Court of India in Vikram Singh - Vs- Commissioner of Police, reported in 2018 (1) SCC 308, wherein the Hon'ble Supreme Court had held that "upon representation of the candidate the employer shall take into consideration the government orders/instructions/rules, applicable to the employee, at the time of taking the decision, and hence in the light of the above judgment the disqualification order is liable to be set aside.

9) Writ Court failed to note that the findings that the petitioner's character and antecedents are not such as to qualify him to the post of Police Constable Grade (II), in the Tamil Nadu Police Department, is liable to be set aside as the same is found only on the basis of the Criminal Case in C.C.No. 12/2014, dated 11.3.2014, wherein the entire

Criminal Trial stands vitiated as per Section 18 of the Juvenile Justice (Care and Protection) Act, 2000, which stipulates that "no juvenile shall be charged with or tried for any offence together with a person who is not a juvenile".

10) Writ court failed to note that there is no question of suppression of fact in the application form applied for the post of the Police Constable Grade (II), in the Tamil Nadu Police Department, by this appellant since the appellant has no need to state such facts as per Section 19(2) of the Juvenile Justice (Care and Protection) Act, 2000, which stipulates that "the Board shall make an order directing that the relevant records of such conviction shall be removed after the expiry of the period of appeal or a reasonable period as prescribed under the rules, as the case may be".

11) Writ court wrongly taken the issue "whether a candidate having a criminal case history can be selected for appointment to the post of Grade-II Police Constable in the Tamil Nadu Police Service or not" since this issue had not arisen in this case and the court ought to have taken the right issue "whether the action of the 2nd respondent in not granting the benefit as enumerated under Section 19 of the Juvenile Justice Act, 2000 to the appellant is correct or not" and ought to have set aside the order of disqualification dated 16.3.2018 as the same is unsustainable in law.

12) Writ court wrongly gone into the issue of "Judicial Review of Administrative Actions" as the same is not at all arisen in the given facts and circumstances of the case and hence the impugned order is liable to be set aside.

9. Substantiating the above, Mr.V.Vediappan, learned counsel for the appellant advanced arguments. In support of his contention, learned counsel relied on Section 19 of the Juvenile Justice (Care & Protection of Children) Act, 2000, which deals with removal of disqualification attaching conviction, and it reads thus:

19. Removal of disqualification attaching to conviction.—

(1) Notwithstanding anything contained in any other law, a juvenile who has committed an offence and has been dealt with under the provisions of this Act shall not suffer disqualification, if any, attaching to a conviction of an offence under such law.

(2) The Board shall make an order directing that the relevant records of such conviction shall be removed after the expiry of the period of appeal or a reasonable period as prescribed under the rules, as the case may be.

10. In support of his contention, learned counsel for the appellant also relied on the following judgments.

(i) Order dated 4.12.2012 made in W.P. (MD) No.11660 of 2008 in the case of S.Karthikeyan vs. Director General of Police and Another;

(ii) Vikram Singh vs. Commissioner of Police reported in (2018) 1 SCC 308; and

11. Per contra, Mr.L.P.Shanmugasundaram, learned special government pleader for the respondent reiterated the stand taken before the writ court, and prayed to sustain the order passed by the writ court. In support of his contention, learned Special Government Pleader, placed reliance on a decision of the Hon'ble Full Bench of this court made in Manikandan v. Chairman, T.N.Uniformed Service, Recruitment Board (FB) reported in 2008 (2) CTC 97.

12. Heard the learned counsel for the parties and perused the materials available on record.

13. From the materials on record and submission of the parties, we could notice that at the time of the alleged commission of the offence, the appellant was aged 17 years 3 months and 19 days. He was arraigned as A3 in Crime No.71 of 2013 on the file of Ulundurpettai Police Station. As rightly contended by the learned counsel for the appellant, the appellant ought to have been tried as a juvenile in C.C. No.12 of 2014 on the file of the learned I Additional District Munsif cum Judicial Magistrate I, Ulundurpettai. However, the Prosecution and the trial court, treated the appellant as an adult and the trial was completed without sending the appellant to the Juvenile Justice Board. Learned trial judge, vide judgment dated 11.3.2014 made in C.C. No.12 of 2014, acquitted the appellant and other accused, giving them the benefit of doubt, as the prosecution witnesses PWs.1 to 3 turned hostile. Writ Court has not adverted to the above.

14. The appellant ought to have been treated only as a 'Juvenile in conflict with law'. Had the appellant been considered as a juvenile, the Juvenile Justice (Care and Protection of Children) Act, 2000, then ought to have been applied. As per Section 2(k) of The Juvenile Justice (Care and Protection of Children) Act, 2000, the word "Juvenile or Child" means a person who has not completed eighteenth year of age;

"Juvenile in conflict with law" means a juvenile who is alleged to have committed an offence and has not completed eighteenth year of age as on the date of commission of such offence".

15. As per Section 19 of the said Act, the appellant shall not suffer disqualification, if any, attaching to a conviction of an offence and as per Sub-section (2) of Section 19, the records of such conviction shall be removed after the expiry of the period of appeal or a reasonable period. There is one thing to contend that there should not be any suppression, while submitting the application for selection to the post of Police Constable Grade (II), but at the same time, even taking it, for granted there is conviction, of a juvenile, as per Section 19 of the said Act, he would not suffer any disqualification. The above proposition of law has been approved by this Hon'ble High Court in W.P. (MD) No.474/2013, (batch cases), followed in order dated 16.4.2013 in W.P.No.16771/2012, (batch cases) P.Mohan -Vs- The Director General of Police and in W.P (MD) No. 3130/2009, dated 20.9.2010 and in S.Karthikeyan - Vs- DGP, in W.P.(MD) No. 11660/2008, dated 4.12.2012.

16. A Criminal Revision has been filed as against the order in C.C.No. 12/2014, dated 3.11.2014, on the file of the 1st Additional District Munsif Cum Judicial Magistrate, No.1, Ulundurpettai, Villupuram District in CrI.R.C.No.39/2018 and in the revision, the 'order of acquittal' has been converted into one of 'Honourable Acquittal' by a learned single judge of this court on 12.1.2018. Further the findings in the revision are that the entire trial, as against this appellant is vitiated and there is no impediment standing in the way of gainful public employment. As rightly contended by the learned counsel for the appellant, Writ Court ought to have considered that, after the order in the criminal revision, the appellant has sent a representation dated 28.2.2018 requesting to re-consider his case in the light of the judgment in the criminal revision case in CrI.R.C.No.39/2018, but the respondent, namely the Superintendent of Police, Villupuram District, has not issued the appointment on the ground that there is 'suppression of material fact', since the appellant had not mentioned about the criminal case in his application made to the post.

17. The Hon'ble Supreme Court in Vikram Singh vs. Commissioner of Police reported in (2018) 1 SCC 308, has considered the law laid down by the Apex Court in Avtar Singh vs. Union of India reported in (2016) 8 SCC 471. The relevant portion of the judgment reads thus:

"38.1.....

38.4.1. In a case trivial in nature in which conviction had been recorded such as shouting slogans at young age or for a petty offence which

if disclosed would not have rendered an incumbent unfit for post in question, the employer may, in its discretion, ignore such suppression of fact or false information by condoning the lapse.

38.4.2. Where conviction has been recorded in case which is not trivial in nature, employer may cancel candidature or terminate services of the employee.

38.10. For determining suppression or false information attestation/verification form has to be specific, not vague. Only such information which was required to be specifically mentioned has to be disclosed.

After narrating the law laid down in the said case, the Hon'ble Apex Court in Vikram Singh's case, held as under:

"4. Accordingly, this appeal is disposed of as follows:

4.1. The appellant is permitted to file a detailed representation before the respondent, within a period of one month from today. In the event of filing of such a representation, the respondent will consider the same in the light of the judgment referred to above and pass a reasoned order after affording an opportunity of hearing to the appellant, within a period of four months thereafter.

4.2. We make it clear that the judgment of the High Court shall not stand in the way of the respondent Commissioner of Police passing orders, as above."

In Vikram Singh - Vs- Commissioner of Police, reported in 2018 (1) SCC 308, the Hon'ble Supreme Court held that "upon representation of the candidate the employer shall take into consideration the government orders/instructions/rules, applicable to the employee, at the time of taking the decision.

18. Per contra, Hon'ble Full Bench judgment relied on by the learned Special Government Pleader in Manikandan v. Chairman, T.N.Uniformed Service, Recruitment Board (FB) reported in 2008 (2) CTC 97, dealt with issues as to whether a person acquitted on benefit of doubt or discharged in a criminal case, can still be considered as disqualified for selection to police service. Hon'ble Full Bench of this court considered Rule 14(b) of the Tamil Nadu Special Police Subordinate Service Rules, 1978, and ultimately found that the said rule was not ultra vires and unconstitutional and consequently, held that 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 unjustifiable. No doubt the Hon'ble Full Bench also dealt with the case of suppression, but on the facts and circumstances of this case, even taking for granted that there is conviction, a juvenile in conflict with law, does not suffer any disqualification, in the light of Section 19 of the Juvenile Justice (Care and Protection of Children) Act, 2000 and the said aspect was not subject matter in the Hon'ble Full Bench judgment. It is well settled law that a statute will prevail over rules, more so when the enactment, is a special enactment with the nomenclature, Juvenile Justice (Care and Protection of Children) Act, 2000. It is an Act to consolidate and amend the law relating to juveniles in conflict with law and children in need of care and protection, by providing for proper care, protection and treatment by catering to their development needs, and by adopting a child-friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation and for matters connected therewith or incidental thereto.

19. Tamil Nadu Special Police Subordinate Service Rules, 1978, framed under Article 309 of the Constitution of India, is a delegated legislation, whereas Juvenile Justice (Care and Protection of Children) Act, 2000 is a special enactment. It is trite law that special enactment prevails over general law. In Commercial Tax Officer, Rajasthan vs. Binani Cements Limited and Another reported in (2014) 8 SCC 319, the Hon'ble Supreme Court, considered the maxim *generalalia specialibus non derogant* as hereunder:

34. It is well established that when a general law and a special law dealing with some aspect dealt with by the general law are in question, the rule adopted and applied is one of harmonious construction whereby the general law, to the extent dealt with by the special law, is impliedly repealed. This principle finds its origins in the Latin maxim of *generalalia specialibus non derogant* i.e. general law yields to special law should they operate in the same field on same subject (Vepa P. Sarathi, Interpretation of Statutes, 5th Edn., Eastern Book Company; N.S. Bindra's Interpretation of Statutes, 8th Edn., The Law Book Company; Craies on Statute Law, S.G.G. Edkar, 7th Edn., Sweet & Maxwell; Justice G.P. Singh, Principles of Statutory Interpretation, 13th Edn., Lexis Nexis; Craies on Legislation, Daniel Greenberg, 9th Edn., Thomson Sweet & Maxwell, Maxwell on Interpretation of Statutes, 12th Edn., Lexis Nexis).

35. Generally, the principle has found vast application in cases of there being two statutes:

general or specific with the latter treating the common subject-matter more specifically or minutely than the former. Corpus Juris Secundum, 82 C.J.S. Statutes § 482 states that when construing a general and a specific statute pertaining to the same topic, it is necessary to consider the statutes as consistent with one another and such statutes therefore should be harmonised, if possible, with the objective of giving effect to a consistent legislative policy. On the other hand, where a general statute and a specific statute relating to the same subject-matter cannot be reconciled, the special or specific statute ordinarily will control. The provision more specifically directed to the matter at issue prevails as an exception to or qualification of the provision which is more general in nature, provided that the specific or special statute clearly includes the matter in controversy (Edmond v. United States [137 L Ed 2d 917 : 520 US 651 (1997)] , Warden v. Marrero [41 L Ed 2d 383 : 417 US 653 (1974)]).

36. The maxim generalia specialibus non derogant is dealt with in Vol. 44(1) of the 4th Edn. of Halsbury's Laws of England at Para 1300 as follows:

"The principle descends clearly from decisions of the House of Lords in Seward v. Vera Cruz [(1884) LR 10 AC 59 : (1881-85) All ER Rep 216 (HL)] and the Privy Council in Barker v. Edger [1898 AC 748 : (1895-99) All ER Rep Ext 1642 (PC)] and has been affirmed and put into effect on many occasions... If Parliament has considered all the circumstances of, and made special provision for, a particular case, the presumption is that a subsequent enactment of a purely general character would not have been intended to interfere with that provision; and therefore, if such an enactment, although inconsistent in substance, is capable of reasonable and sensible application without extending to the case in question, it is prima facie to be construed as not so extending. The special provision stands as an exceptional proviso upon the general. If, however, it appears from a consideration of the general enactment in the light of admissible circumstances that Parliament's true

intention was to establish thereby a rule of universal application, then the special provision must give way to the general."

38. The adoption of the aforesaid rule in application of principle of harmonious construction has been explained by Kasliwal, J. while expressing his partial dissent to the majority judgment in *St. Stephen's College v. University of Delhi* [(1992) 1 SCC 558] as follows: (SCC p. 642, para 140)

"140. ... The golden rule of interpretation is that words should be read in the ordinary, natural and grammatical meaning and the principle of harmonious construction merely applies the rule that where there is a general provision of law dealing with a subject, and a special provision dealing with the same subject, the special prevails over the general. If it is not constructed in that way the result would be that the special provision would be wholly defeated. The House of Lords observed in *Warburton v. Loveland* [(1831) 2 Dow & Cl 480 : 6 ER 806 : (1824-34) All ER Rep 589 (HL)] as under: (ER p. 814)

'No rule of construction can require that, when the words of one part of a statute convey a clear meaning ... it shall be necessary to introduce another part of the statute which speaks with less perspicuity, and of which the words may be capable of such construction, as by possibility to diminish the efficacy of the [first part].'" सत्यमेव जयते (emphasis supplied)

[*Anandji Haridas and Co. (P) Ltd. v. S.P. Kasture* [AIR 1968 SC 565 : (1968) 1 SCR 661] , *Patna Improvement Trust v. Lakshmi Devi* [AIR 1963 SC 1077 : 1963 Supp (2) SCR 812] , *Ethiopian Airlines v. Ganesh Narain Saboo* [(2011) 8 SCC 539 : (2011) 4 SCC (Civ) 217] , *Usmanbhai Dawoodbhai Memon v. State of Gujarat* [(1988) 2 SCC 271 : 1988 SCC (Cri) 318] , *South India Corpn. (P) Ltd. v. Board of Revenue* [AIR 1964 SC 207 : (1964) 4 SCR 280] , *Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupeshkumar Sheth* [(1984) 4 SCC 27] .]

39. In J.K. Cotton Spg. & Wvg. Mills Co. Ltd. v. State of U.P. [J.K. Cotton Spg. & Wvg. Mills Co. Ltd. v. State of U.P., AIR 1961 SC 1170 : (1961) 3 SCR 185] , this Court has clarified that not only does this rule of construction resolve the conflicts between the general provision in one statute and the special provision in another, it also finds utility in resolving a conflict between general and special provisions in the same legislative instrument too and observed that: (AIR pp. 1174-75, paras 9-10)

"9. ... We reach the same result by applying another well-known rule of construction that general provisions yield to special provisions. The learned Attorney General seemed to suggest that while this rule of construction is applicable to resolve the conflict between the general provision in one Act and the special provision in another Act, the rule cannot apply in resolving a conflict between general and special provisions in the same legislative instrument. This suggestion does not find support in either principle or authority. The rule that general provisions should yield to specific provisions is not an arbitrary principle made by lawyers and Judges but springs from the common understanding of men and women that when the same person gives two directions one covering a large number of matters in general and another to only some of them his intention is that these latter directions should prevail as regards these while as regards all the rest the earlier direction should have effect. In *Pretty v. Solly* [(1859) 26 Beav 606 : 53 ER 1032] (quoted in *Craies on Statute Law* at p. 206, 6th Edn.), Romilly, M.R., mentioned the rule thus: (ER p. 1034)

'The rule is that wherever there is a particular enactment and a general enactment in the same statute, and the latter, taken in its most comprehensive sense, would overrule the former, the particular enactment must be operative, and the general enactment must be taken to affect only the other parts of the statute to which it may properly apply.'

The rule has been applied as between different provisions of the same statute in numerous cases some of which only need be mentioned: *De Winton v. Brecon Corpn.* [(1859) 26 Beav 533 : 53 ER 1004] , *Churchill v. Crease* [(1828) 5 Bing 177 : 130 ER 1028] , *United States v. Chase* [34 L Ed 117 : 135 US 255 (1890)] and *Carroll v. Greenwich Insurance Co.* [50 L Ed 246 : 199 US 401 (1905)]

10. Applying this rule of construction that in cases of conflict between a specific provision and a general provision the specific provision prevails over the general provision and the general provision applies only to such cases which are not covered by the special provision, we must hold that Clause 5(a) has no application in a case where the special provisions of Clause 23 are applicable."

40. Lord Cooke of Thorndon pointed out, however, in *Effort Shipping Co. Ltd. v. Linden Management S.A.* [1998 AC 605 : (1998) 2 WLR 206 : (1998) 1 All ER 495 (HL)] that the maxim is not a technical rule peculiar to English statutory interpretation, rather it "represents simple common sense and ordinary usage". Bennion, *Statutory Interpretation*, 5th Edn. (2008), p. 1155 states that it is based, like other linguistic canons of construction, "on the rules of logic, grammar, syntax and punctuation, and the use of language as a medium of communication generally". As Lord Wilberforce observed in *Associated Minerals Consolidated Ltd. v. Wyong Shire Council* [1975 AC 538 : (1975) 2 WLR 81 (PC)] , AC p. 554, that it is still a matter of legislative intention, which the courts endeavour to extract from all available indications.

41. In *Waverly Jute Mills Co. Ltd. v. Raymon & Co. (India) (P) Ltd.* [AIR 1963 SC 90 : (1963) 3 SCR 209] and *Union of India v. India Fisheries (P) Ltd.* [AIR 1966 SC 35] this Court has observed that when there is an apparent conflict between two independent provisions of law, the special provision must prevail. In *CCE v. Jayant Oil Mills (P) Ltd.* [(1989) 3 SCC 343 : 1989 SCC (Tax) 423] , this Court has accepted the aforesaid rule as "the basic rule of construction" that is to say "a more specific item should be preferred to one less so." In *Sarabjit Rick Singh v. Union of India* [(2008) 2 SCC 417 : (2008) 1 SCC (Cri) 449] , this Court has

in fact followed the aforesaid precedents thus:
(SCC p. 438, para 58)

"58. The Act is a special statute.
It shall, therefore, prevail over the
provisions of a general statute like the
Code of Criminal Procedure."

43. In LIC v. D.J. Bahadur [(1981) 1 SCC 315 : 1981 SCC (L&S) 111] this Court was confronted with the question as to whether the LIC Act is a special legislation or a general legislation and while considering the rule in discussion, this Court observed thus: (SCC p. 349, para 49)

"49. ... the legal maxim *generalibus specialibus non derogant* is ordinarily attracted where there is a conflict between a special and a general statute and an argument of implied repeal is raised. Craies states the law correctly:

'The general rule, that prior statutes are held to be repealed by implication by subsequent statutes if the two are repugnant, is said not to apply if the prior enactment is special and the subsequent enactment is general, the rule of law being, as stated by Lord Selbourne in *Seward v. Vera Cruz* [(1884) LR 10 AC 59 : (1881-85) All ER Rep 216 (HL)] ,
"that where there are general words in a later Act capable of reasonable and sensible application without extending them to subjects specially dealt with by earlier legislation, you are not to hold that earlier and special legislation indirectly repealed, altered, or derogated from merely by force of such general words, without any indication of a particular intention to do so. There is a well-known rule which has application to this case, which is that a subsequent general Act does not affect a prior special Act by implication. That this is the law cannot be doubted, and the cases on the subject will be found collected in the third edition of Maxwell is *generalibus specialibus non derogant*

i.e. general provisions will not abrogate special provisions." When the legislature has given its attention to a separate subject and made provision for it, the presumption is that a subsequent general enactment is not intended to interfere with the special provision unless it manifests that intention very clearly. Each enactment must be construed in that respect according to its own subject-matter and its own terms.' [Craies on Statute Law (6th Edn., 1963) pp. 376-77] " (emphasis supplied)

44. In Ashoka Mktg. Ltd. v. Punjab National Bank [(1990) 4 SCC 406] this Court has placed reliance upon Bennion, Statutory Interpretation and J.K. Cotton Spg. & Wvg. Mills case [J.K. Cotton Spg. & Wvg. Mills Co. Ltd. v. State of U.P., AIR 1961 SC 1170 : (1961) 3 SCR 185], amongst others, and explaining the rationale of this rule has reiterated the law as under: (Ashoka Mktg. Ltd. case [(1990) 4 SCC 406], SCC pp. 438-39, paras 52-53)

"52. In U.P. SEB v. Hari Shankar Jain [(1978) 4 SCC 16 : 1978 SCC (L&S) 481] this Court has observed: (SCC p. 27, para 9)

'9. ... In passing a special Act, Parliament devotes its entire consideration to a particular subject. When a general Act is subsequently passed, it is logical to presume that Parliament has not repealed or modified the former special Act unless it appears that the special Act again received consideration from Parliament.'

53. In LIC v. D.J. Bahadur [(1981) 1 SCC 315 : 1981 SCC (L&S) 111] Krishna Iyer, J. has pointed out: (SCC pp. 350-51, para 52)

'52. In determining whether a statute is a special or a general one, the focus must be on the principal subject-matter plus the particular perspective. For certain purposes, an Act may be general and for certain other purposes it may be special and we cannot blur distinctions when dealing with finer points of law.'

45. In U.P. SEB v. Hari Shankar Jain [(1978) 4 SCC 16 : 1978 SCC (L&S) 481] , this Court has concluded that if Section 79(c) of the Electricity (Supply) Act generally provides for the making of regulations providing for the conditions of service of the employees of the Board, it can only be regarded as a general provision which must yield to the special provisions of the Industrial Employment (Standing Orders) Act in respect of matters covered by the latter Act, and observed that: (SCC p. 27, para 9)

"9. The reason for the rule that a general provision should yield to a specific provision is this: In passing a special Act, Parliament devotes its entire consideration to a particular subject. When a general Act is subsequently passed, it is logical to presume that Parliament has not repealed or modified the former special Act unless it appears that the special Act again received consideration from Parliament. Vide London and Blackwall Railway Co. v. Limehouse District Board of Works [(1856) 3 K & J 123 : 69 ER 1048] and Thorpe v. Adams [(1871) LR 6 CP 125] ."

47. Having noticed the aforesaid, it could be concluded that the rule of statutory construction that the specific governs the general is not an absolute rule but is merely a strong indication of statutory meaning that can be overcome by textual indications that point in the other direction. This rule is particularly applicable where the legislature has enacted comprehensive scheme and has deliberately targeted specific problems with specific solutions. A subject-specific provision relating to a specific, defined and describable subject is regarded as an exception to and would prevail over a general provision relating to a broad subject.

20. At the time of commission of offence, the appellant was a minor. He has been honourably acquitted. Section 19 of the Juvenile Justice (Care and Protection of Children) Act, 2000, has to be applied and given effect or else, there would be a permanent disqualification, which the law, prohibits. There was no occasion for the Hon'ble Full Bench to consider the scope of Section 19 of the said Act.

21. Section 19 of the Juvenile Justice (Care and Protection of Children) Act, 2000, protects a juvenile, that, there shall not be any stigma attached, even if he is convicted. Care and protection is the intention of the legislature. What has happened at the time when the petitioner was a juvenile, should not be a permanent impediment, and make him ineligible for any post in government, or employment in other statutory bodies. When there is no stigma attached to even conviction, merely because, the appellant has not disclosed the criminal case, in the application, his candidature, ought not to have been rejected.

22. In view of the foregoing discussions and the decisions, we term the order of the writ court dated 9.4.2018 passed in W.P.No.7879 of 2018, is erroneous, infirm and liable to be set aside.

In the result, the writ appeal is allowed. Order of the writ court dated 9.4.2018 passed in W.P.No.7879 of 2018, is set aside. The concerned authority is directed to appoint the appellant as Grade-II Police Constable and send him for training along with the batch of police constables, if any undergoing training or in future. However, there shall be no order as to costs. Consequently, the connected civil miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Asr

Sub Assistant Registrar

To

The Superintendent of Police
Villupuram District
O/o the Superintendent of Police,
Villupuram

+1 cc to Mr.S.Vediappan, Advocate, S.R.No.3147

+1 cc to the Government Pleader, S.R.No.3977

W.A.No.2759 of 2018 and
C.M.P. No.17066 of 2018

CP(CO)
SSM(27/06/2019)