



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

AND

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A(MD)NO.672 OF 2019
IN WP(MD)No.7452 of 2016

M.Dhanapandi

:Appellant/Petitioner

.vs.

1.The Director General of Police,
Director General of Police Office,
Chennai.

2.The Superintendent of Police,
Dindigul District,
Dindigul.

: Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent praying this Court to set aside the order passed by this Court in W.P(MD)No.7452 of 2016, dated 18.03.2019

Prayer in WP(MD). 7452/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for records of the 2nd respondent in his proceedings in Na.Ka.No. A9/9797/192/2012-5, dated 06.01.2013 and quash the same as illegal, arbitrary, against the constitution and contravention to Explanation II of Clause IV of Rule 14(b) of Tamil Nadu Special Police Subordinate Service Rules 1978, the Honble Supreme Court Judgment in Mehar Singh case in 2013, and the Judgment of the larger Bench of this Honble Court in 2014 (2) LW and in consequence direct the first respondent to consider the representation dated 04.04.2016 for issuing appointment order to the Petitioner.

For Appellant

:Mr.V.Muniasamy

For Respondents

:Mr.N.Shanmugaselvam

Addl.Govt.Pleader

JUDGMENT

[Judgment of the Court was made by K.RAVICHANDRABAABU,J.]

This Writ Appeal is directed against the order passed in W.P (MD)No.7452 of 2016, dated 18.03.2019, in dismissing the Writ Petition filed against the order rejecting the candidature of the Writ Petitioner for appointment to the post of Grade-II Police Constable.



2. Heard the learned counsel appearing for the appellant and the learned Additional Government Pleader appearing for the respondents.

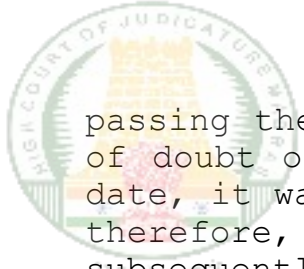
3. The short facts and circumstances, which culminated into the filing of the present Writ Appeal are as follows:

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The Petitioner participated in the recruitment process in the year 2012 for selection to the post of Police Constable Grade-II in Tamil Nadu Special Police. Though the Petitioner was provisionally selected in the written test and other physical tests, his candidature was rejected by the second respondent on 6.1.2013, by citing the reason that his antecedents are not satisfactory, as he was involved in a criminal case where he was acquitted only by extending the benefit of doubt under Section 235(I) of Criminal Procedure Code. The Writ Petitioner, however, filed Crl.R.C(MD) No.109/2013 before this Court for expunging the remarks of acquittal on benefit of doubt and term it as Honourable acquittal. The said Criminal Revision was allowed on 14.2.2013 and this Court modified the acquittal as a Honourable acquittal instead of acquittal on benefit of doubt. Consequent upon the said order passed in the Crl.R.C(MD) No.109 of 2013, dated 14.2.2013, the Petitioner filed the subject-matter Writ Petition challenging the order of the second respondent, dated 6.11.2013 with a consequential direction to issue an appointment order to the Petitioner.

4. The Writ Court, after hearing both sides and by following the order passed in W.P(MD) No.712 of 2019 etc., batch of cases, dated 13.3.2019, arising out of the very same issue, dismissed the Writ Petition. Challenging the said order, the present Writ Appeal is filed before this Court.

5. We have given our careful consideration to the submissions made by the learned counsel for the appellant and the learned Additional Government Pleader appearing for the respondents.

6. The Writ Petitioner wants to join the Tamil Nadu Special Police force as Grade-II Police Constable. No doubt, he passed the written test as well as the physical tests. However, the fact remains that in a criminal case filed against him and others in Crime No.218/2007, culminated into a Sessions case in S.C.No.197 of 2010, on the file of the Principal Sessions Court, Dindigul, the Sessions Court by its judgment, dated 9.8.2011, acquitted the Petitioner and others only by extending the benefit of doubt in favour of the accused persons. No doubt, the said acquittal based on benefit of doubt, was subsequently modified as Honourable acquittal by this Court on 14.2.2013 in Crl.RC(MD) No.109 of 2013. The order impugned in the Writ Petition was admittedly passed on 6.1.2013, on which day, the acquittal of the Writ Petitioner stood only based on extending the benefit of doubt as ordered by the Trial Court. Therefore the second respondent cannot be faulted in rejecting the selection by citing the antecedents of the Writ Petitioner. What is to be seen is as to whether on the date



passing the order of rejection, the acquittal was based on benefit of doubt or as an Honourable acquittal. Admittedly, on the crucial date, it was only an acquittal by extending the benefit of doubt and therefore, the Petitioner cannot take advantage of the order subsequently passed by this Court on 12.03.2013 in Crl.R.C(MD)No.109 of 2013 modifying the order passed by the Sessions Court. The Writ Court considered this aspect and dismissed the Writ Petition after taking note of the order passed by the Apex Court in State(UT of Chandigrah) .vs. Pradeep Kumar reported in 2018(1)SCC 797, where a similar issue was considered and decided against the stand taken by the Petitioner. Needless to state that the selection to the disciplined force cannot be compromised on any account, more particularly, when antecedents of the applicant is with a criminal background. Therefore, We find that the order of the Writ Court does not warrant any interference.

7.Accordingly, the Writ Appeal is dismissed. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Director General of Police,
Director General of Police Office,
Chennai.

2.The Superintendent of Police,
Dindigul District,
Dindigul.

+1 CC to Mr.V.Muniasamy, Advocate SR.No. 72973.

**JUDGMENT MADE IN
W.A(MD) NO.672 OF 2019
03.07.2019**

CS: 17/07/2019 3P 4C