



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 13.03.2019

Delivered on : 18.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.[MD]No.7452 of 2016

and

W.M.P. (MD)No.6259 of 2016

M.Dhanapandi

: Petitioner

Vs.

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

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

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for records of the second 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 Hon'ble Supreme Court Judgment in Mehar Singh case in 2013 and the judgment of the larger Bench of this 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 Petitioner : Mr.V.Muniasamy

For Respondents : Mr.V.Anand,
Government Advocate

ORDER

The challenge in this Writ Petition is to the order dated 06.01.2013 of the second respondent, whereby and whereunder, the candidature of the petitioner for appointment to the post of Grade II Police Constable was rejected.

2. The case of the petitioner, in brief, is as follows:

(i) The petitioner was provisionally selected for the post of Grade II Police Constable in 2010 Batch vide letter No.46896/W-1/2010, dated 06.09.2011, but, no appointment order was issued stating that he was involved in a criminal case in Crime No.218 of 2007 registered on the file of Sempatti Police Station on 13.08.2007. On investigation, the same was taken on file as S.C.No.197 of 2010 by the learned Principal Sessions Judge, Dindigul. The petitioner was acquitted on the ground of benefit of doubt. Hence, he filed Cr1.R.C.(MD)No.109 of 2013, wherein, this Court, by order dated 14.02.2013, modified the acquittal on the



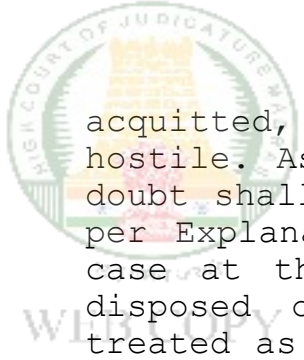
benefit of doubt into one of honourable acquittal.

(ii) Pursuant to the Explanation II of Clause IV of Rule 14 (b) of the Tamil Nadu Special Police Subordinate Service Rules, 1978 [hereinafter referred to as 'the Rules'], the petitioner attended the second time recruitment in 2012 and was selected provisionally for the post of Police Constable Grade II Tamil Nadu Special Police.

(iii) While so, the second respondent, without any notice, instead of issuing appointment order, passed the impugned order dated 06.01.2013 rejecting his candidature. Thereafter, explaining his involvement in criminal case, acquittal on benefit of doubt and on revision, the remarks in the criminal case was expunged, the petitioner sent a representation dated 04.04.2016 to the respondents. However, no reply is forthcoming. Having left with no other remedy, the petitioner has approached this Court seeking appropriate reliefs.

3. The learned counsel for the petitioner submitted that the petitioner was provisionally selected in 2010 and 2012, but, he has not get any appointment on account of his involvement in criminal case. The impugned order rejecting his claim is not sustainable in the eye of law, because of the fact that though the petitioner was initially involved in a criminal case, subsequently, during trial, he was acquitted on benefit of doubt and on revision, the remark was also expunged and the acquittal was modified as one of honourable acquittal. Even though he fulfilled all the tests and was medically fit, his candidature was not considered, which is contrary to the Explanation II of Clause IV of Rule 14 (b) of the Rules. Thus, stating that the petitioner is entitled for appointment in police service, he seeks to set aside the impugned order and prays for appropriate direction.

4. Denying the averments made in the affidavit filed in support of the Writ Petition, the second respondent filed a counter affidavit contending *inter alia* that the petitioner appeared for the examination for the post of Constable Grade II for the year 2010. He was provisionally selected for appointment as Grade II Jail Warden for the year 2010. However, when he was subjected to police verification, it was found that he was involved in a criminal case in Crime No.218 of 2007 and the same is pending in S.C.No.197 of 2010. Again, the petitioner appeared for the very same post for the year 2012 and he was provisionally selected, but, during police verification, it came to light that the aforesaid case was acquitted by giving benefit of doubt by the learned Principal Sessions Judge, Dindigul, vide order dated 09.08.2011. The revision filed by him to expunge the remark of acquittal on benefit of doubt was allowed by this Court by order dated 14.02.2013 and it was termed as honourable acquittal. It is submitted that the amended Rule 14(b)(iv) provides that if any person is acquitted on benefit of doubt, he is not entitled to claim the benefit of eligibility of appointment. In the case on hand, the petitioner was not honourably



acquitted, but acquitted due to the fact that the witnesses turned hostile. As per the rules, a person who is acquitted on benefit of doubt shall be treated as a person involved in a criminal case. As per Explanation under Rule 14(b), a person involved in a criminal case at the time of police verification and the case yet to be disposed of and subsequently ended in honourable 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. As the petitioner was not acquitted honourably prior to issuance of his non-selection, he was not appointed as Grade II Police Constable and the factum of non-selection was intimated to him by way of impugned order dated 06.01.2013. The order of honourable acquittal was passed only on 14.02.2013. The character and antecedent of the individuals are paramount consideration in the selection of candidates to the police service. Further, as per G.O.Ms.No.101, Home Department, dated 30.01.2003 and Rule 14(b), his character and antecedents were not good. Thus, the petitioner's request for appointment was rejected by the second respondent only based on his character and antecedents.

5. Reiterating the averments made in the counter-affidavit, the learned Government Advocate appearing for the respondents has prayed for dismissal of the Writ Petition.

6. Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

7. The very same issue was dealt with in detail by this Court in W.P.[MD]Nos.712 of 2019, etc., batch cases, decided on 13.03.2019, the relevant portion of which read thus:

"24. 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.

25. The issue at hand was elaborately dealt with by the Hon'ble Supreme Court very recently in State (UT of Chandigarh) v. Pradeep Kumar reported in 2018(1) SCC 797. The relevant paragraphs of the said judgment read thus:

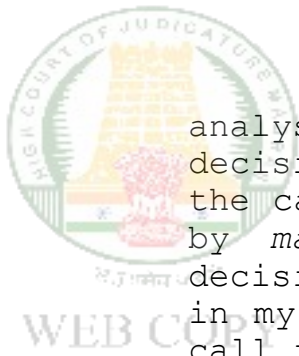
"13. It is thus well settled that acquittal in a criminal case does not automatically entitle him for appointment to the post. Still it is open to the employer to consider the antecedents and examine whether he is



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27. Therefore, applying the ratio laid down in *State (Or of Chandigarh) v. Pradeep Kumar* reported in 2018 (1) SCC 797, if the facts of the present cases are



analysed, this Court has no hesitation to hold that the decision taken by the concerned authorities in rejecting the candidature of the petitioners was in any way actuated by *mala fides* or suffered on any other ground. The decision on the question of suitability of the candidates, in my considered view, was absolutely correct and did not call for any interference."

8. Following the judgment referred to above, if the facts of the present case is analyzed, this Court is of the view that the second respondent, vide impugned order dated 06.01.2013, considering the character and antecedents, has rightly rejected the candidature of the petitioner for appointment to the post of Grade II Police Constable. Furthermore, the petitioner was honourably acquitted by this Court by order dated 14.02.2013 in CrI.R.C.(MD)No.109 of 2013, which was subsequent to his non-selection. Therefore, in line with the order dated 13.03.2019 in W.P.(MD)Nos.712 of 2019 etc., batch, this Writ Petition is also dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD II)

// 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.

+1cc to Mr.V.MUNIASAMY, Advocate, SR.No.54638

+1cc to M/s.Special Government Pleader,SR.No.55288

W.P.[MD]No.7452 of 2016

18.03.2019

SML

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