

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2020

CORAM

THE HONOURABLE THIRU JUSTICE V. PARTHIBAN

W.P.No.8667 of 2020

and

W.M.P.No.10499 & 10500 of 2020

Thiru.D.Ranjith

...Petitioner

Vs.

1.The Director General of Police,
Tamil Nadu, Chennai - 04.

2.The Superintendent of Police,
Villupuram District,
District Police Office,
Villupuram.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the entire records of order of the second respondent in C.No.A2/10200/2019 dated 15.05.2020 not considering the petitioner for the post of Grade II Police Constable in the year 2019 and quash the same as illegal, arbitrary and contrary to law and consequently direct the second respondent to consider the petitioner to the post of Grade II Police Constables for the year 2019.

For Petitioner : Mr.M.Manimaran

For Respondents : Mr.J.Ramesh
Additional Government Pleader

ORDER

The matter is taken up through web hearing.

2.This writ petition is filed with the following prayer;
"Calling for the entire records of order of the second respondent in C.No.A2/10200/2019 dated 15.05.2020 not considering the petitioner for the post of Grade II Police Constable in the year 2019 and quash

the same as illegal, arbitrary and contrary to law and consequently direct the second respondent to consider the petitioner to the post of Grade II Police Constables for the year 2019."

3.Tamil Nadu Uniformed Services Board issued Notification calling for recruitment for the posts of Gr.II Police Constable, Gr.II Jail Warder, Fireman for the year 2019. The petitioner responded to the recruitment Notification and also participated in the selection conducted in pursuance thereof. Written examination was held on 08.04.2019 and the result was declared on 26.09.2019 and the petitioner was successful in the written examination. According to the petitioner, he had also successfully completed the Physical Measurement Test and Physical Efficiency Test on 23.11.2019. The petitioner claims to have been informed of his selection and was also allotted for institution training in Kanyakumari District on 28.04.2020.

4.While so, the second respondent issued a communication on 15.05.2020 rejecting the selection of the petitioner as Gr.II Police Constable on the ground that the petitioner was involved in a criminal case, in terms of Rule 14(2), Sub Rule (b) (iv) and Explanation (1) & (2) of the Special Rules for Tamil Nadu Special Police Subordinate Service Rules, 1978 and as per G.O.Ms.101, Home(Police IX) Department, dated 30.01.2003. The said communication is put to challenge in the present writ petition.

5.The learned counsel appearing for the petitioner would submit that an FIR was registered against the petitioner on 18.01.2019 and the petitioner was not arrested at all as stated in the impugned order. Eventually STC No.508/2019 ended in acquittal on 13.02.2020. The petitioner was charge-sheeted only under Section 160 of IPC for committing affray, which is a very simple offence, which cannot disentitle him from being considered for appointment to the police force. In any event, according to the learned counsel, there is no proper application of mind on the part of the authority and the impugned communication is passed summarily without any notice to the petitioner. Therefore, the learned counsel would submit that the matter may be remitted back to the authority for fresh consideration on the basis of records connected to the initiation of criminal proceeding and its conclusion.

6.Mr.J.Ramesh, learned Additional Government Pleader, who took notice on behalf of the respondents, on instructions, would submit that the matter may be remanded to the second respondent to consider the claim of the petitioner afresh.

7. In view of the above narrative, this Court is of the view that prima facie it appears that the second respondent has not considered the nature of offence said to have been committed by the petitioner and also the acquittal by the criminal Court. In any event, it is entirely within the domain of the second respondent to consider the suitability of the candidature i.e., the petitioner herein and in such consideration of the candidature, the second respondent is expected to apply his mind thoroughly into the facts, which led to the filing of FIR in the criminal case. The second respondent is also expected to consider the nature of offence alleged against the petitioner.

8. Since, the petitioner is stated to have been selected and awaiting appointment, the authority may take into consideration the entirety of circumstances and pass a reasoned order on the suitability of the petitioner herein.

9. In the above circumstances, the Writ Petition is disposed of with a direction to the second respondent to consider the case of the petitioner with reference to his involvement in the criminal case and assess his suitability thereafter and pass appropriate order within a period of four weeks from the date of receipt of copy of this order. The second respondent is also directed to issue notice to the petitioner for personal hearing in this regard before he proceeds to pass a final order in the matter.

10. In the result, the Writ Petition stands disposed of as indicated above. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AD I)MDU

//True Copy//

Sub Assistant Registrar

mrm/msk

To

1. The Director General of Police,
Tamil Nadu, Chennai - 04.

2. The Superintendent of Police,
Villupuram District,
District Police Office,
Villupuram.

W.P.No.8667 of 2020

SSV(CO)
KKV/20/08/2020