

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.01.2020

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.13831 of 2019 and WMP Nos.13915 & 13916 of 2019

T.Malai Mathi Vijayan

...Petitioner

Vs.

1. The Commissioner of Police,
Chennai City Police,
No.132, Commissioner Office Building,
E.V.K.Sampath Road,
Vepery, Chennai 600 007.
2. The Director General of Police,
Tamil Nadu Uniformed Services Recruitment Board,
Old COP Office campus,
Pantheon Road,
Egmore, Chennai 600 008.
3. The Joint Commissioner of Police,
North Zone, Chennai City Police,
Old Washermanpet,
Chennai 600 021.

..Respondents

Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of certiorarified Mandamus to call for the

records and quash the proceeding passed by the 3rd respondent in Na.Ka.En.PaPi 2(1)/596/5571/2018, dated 12.04.2019 and consequently, direct the 2nd respondent to permit the petitioner to participate in the recruitment process for the post of Sub-Inspector under the departmental quota as notified by the 2nd respondent in Notification No.2/2019 as per the petitioner's eligibility.

For Petitioner : Mrs.K.Grahalakshmi

For Respondents : Mrs.Narmadha Sampath,
Additional Advocate General
Assisted by Mr.V.Kadhirvelu,
for R2.

Mr.P.S.Siva Shanmugasundram
for R1 and R3.

ORDER

The present writ petition has been filed challenging the impugned proceedings of the 3rd respondent dated 12.04.2019, rejecting the No objection Certificate (NOC) sought for by the petitioner to participate in the selection to the post of Sub-Inspector of Police under the Department quota and for a consequential direction to permit the petitioner to participate in the selection process.

2. The case of the petitioner is that he joined the service of the Tamil Nadu Police as a Police Constable Gr.II in the year 2003 and he was subsequently promoted as a Head Constable. A case came to be filed against the petitioner in Crime No.48 of 2012 and consequent to the same, disciplinary proceedings came to be initiated against the petitioner. At the end of the Disciplinary proceedings, punishment was imposed against the petitioner by postponing the increment for three years without cumulative effect. The petitioner filed an Appeal before the Deputy Inspector General of Police and the punishment was modified to one of postponement of increment for one year without cumulative effect.

3. The 2nd respondent issued a notification calling for applications for direct recruitment to the post of Sub-Inspector of Police. As per the notification, a Department quota of 20% is given for all serving police personnel to participate in the selection, if they meet the eligibility criteria under *Rule 14 of Tamil Nadu Police Subordinate Service*. The petitioner also applied for the said post.

4. The petitioner had sought for a No Objection Certificate

in order to participate in the selection. The 3rd respondent by virtue of the impugned proceedings dated 12.04.2019, rejected the request for the NOC and the same has now become a subject matter of challenge in this writ petition before this Court.

5. M/s.K.Grahalakshmi, learned counsel appearing for the petitioner submitted that as per *Rule 14 of the Tamil Nadu Police Subordinate Service*, the punishment of postponement of increment for one year without cumulative effect is considered to be a minor punishment and this punishment will have effect only for a period of five years and therefore, as on the date when the NOC was considered by the 3rd respondent, the five years have elapsed and therefore, the petitioner is entitled to be given the NOC for participating in the selection. The learned counsel further submitted that the Joint Commissioner of Police, North Zone, Greater Chennai, had earlier given NOC to the petitioner for applying under the Department Quota and at that point of time, it was clearly found that the punishment imposed against the petitioner is only a minor punishment and therefore, the petitioner was given the NOC. The learned counsel concluded her argument by submitting that the 3rd respondent mis-

directed himself in rejecting the NOC mainly on the ground that the petitioner did not suffer the minor punishment as enlisted in the notification and therefore, the impugned proceedings requires interference.

6. Mrs.Narmatha Sampath, learned Additional Advocate General, appearing on behalf of the respondents submitted that the petitioner cannot rely upon the earlier NOC that was given in the year 2015 by the Joint Commissioner of Police. The learned counsel submitted that there was an amendment to the Special Rules in the year 2017 by virtue of G.O.Ms.No.168, Home (Police VI) department, dated 02.03.2017, and this amendment clearly provided that any person seeking to participate in the selection of Sub-Inspector of Police from the side of the Department, must possess a clean record of service without any punishment other than the minor punishment of Black Mark, reprimand and/or censure. The learned counsel submitted that the petitioner does not fall within any of these three punishments and therefore, the 3rd respondent was right in rejecting the NOC sought for by the petitioner. The learned Additional Advocate General further submitted that the very same issue had come up for

consideration before this Court in ***WP Nos.13090 & 13095 of 2019*** in ***[S.Maharajan and another vs. The Principal Secretary to Government and others]***. By placing reliance upon this judgement, the learned counsel submitted that this Court had categorically held that all those who are submitting their applications to secure appointment by way of direct recruitment to the post of Sub-Inspector of Police, must satisfy the requirements of the amended Special Rules.

7. The learned Additional Advocate General further relied upon the judgement of the Hon'ble Supreme Court in ***Civil Appeal No.67, 68, 69 and 70 of 2018*** in ***[Union Territory, Chandigarh, Administration and others Vs. Pradeep Kumar and another]***, wherein, the Hon'ble Supreme Court has insisted that in police force, it is always open to the employer to consider the antecedents and examine the suitability of a candidate, who is involved in a criminal case. The learned Additional Advocate General concluded her arguments by submitting that the candidates who fall under the Departmental Quota, were expected to have a clean record, unless they had suffered the minor punishments which has been specifically mentioned in the rule itself and all the other candidates will not be

entitled for NOC. Therefore, the learned Additional Advocate General sought for dismissal of this writ petition.

8. This Court has carefully considered the submissions made on either side and also the materials available on record.

9. It is an admitted case that the petitioner had suffered a punishment of postponement of increment for one year without cumulative effect. This punishment was imposed by the Deputy Inspector General, Thirunelveli Range by his proceedings dated 05.07.2013. It is also an admitted fact that the Special Rules under the *Tamil Nadu Police Subordinate Service Rules* was amended by virtue of G.O.Ms.No.168 dated 02.03.2017 and it will be relevant to extract the amendment that was brought into effect by this Government Order.

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<i>"Category 2 Sub Inspector of Police"</i>	Must have completed the age of 20 years and must not have completed the age of 28 years: Provided that for appointment of a candidate who is a member of Scheduled Castes or Scheduled Tribes, the upper age limit shall be 33 years. Provided further that for appointment of a candidate who is a member of Backward Classes or Most Backward Classes or Denotified communities, the upper age limit shall be 30 years. Provided also that for appointment of a candidate who is a Destitute Widow, the upper age limit shall be 35 years	(1) (i) Must possess a Degree from any University or Institution recognised by the University Grants Commission. (ii) Must have the ability to read and write any one of the following languages, namely, Tamil, Telugu, Malayalam, Kannada or Hindustani. (2) The Departmental quota candidates must possess:- (i) a Degree from any University or Institution recognised by the University Grants Commission. (ii) five years of service in their respective categories as on 1st July preceding the date of Notification of selection and (iii) a clean record of service without any punishment other than the minor punishment of Black Mark, Reprimand and/or Censure.
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10. It is clear from the above amendment that a candidate

who is aspiring to participate under the Department Quota in the selection, must have a clean record of service without any punishment. The only exception that has been given under the Rule is that the minor punishment of Black Mark, Reprimand and/or Censure, are not considered to be disqualifications. It is clear from the Rule that apart from these three punishments which have been enlisted, a candidate who has suffered any other punishment is disqualified from participating in the appointment and such punishments are construed to the effect that the candidate does not possess a clean record of service.

11. As rightly pointed out by the learned Additional Advocate General appearing on behalf of the respondents, the police service requires such stringent qualifications to be prescribed in order to ensure that only those departmental candidates possessing clean records are permitted to participate in the Direct Recruitment. The same has also been made clear by the judgments relied upon by the learned Additional Advocate General in this regard.

12. The 3rd respondent by his proceedings dated 12.04.2019,

has rejected the NOC for the petitioner on the ground that he has suffered a punishment of postponement of next increment for one year without cumulative effect and therefore, the petitioner is disqualified as per the amended Special Rules of the *Tamil Nadu Subordinate Service Rules*.

13. This Court does not find any ground to interfere with the impugned proceedings of the 3rd respondent and the 3rd respondent has passed the order, strictly in compliance with the Special Rules as was in force in the year 2019.

14. In the result, this writ petition is dismissed. No costs. Consequently, all connected miscellaneous petitions are closed.

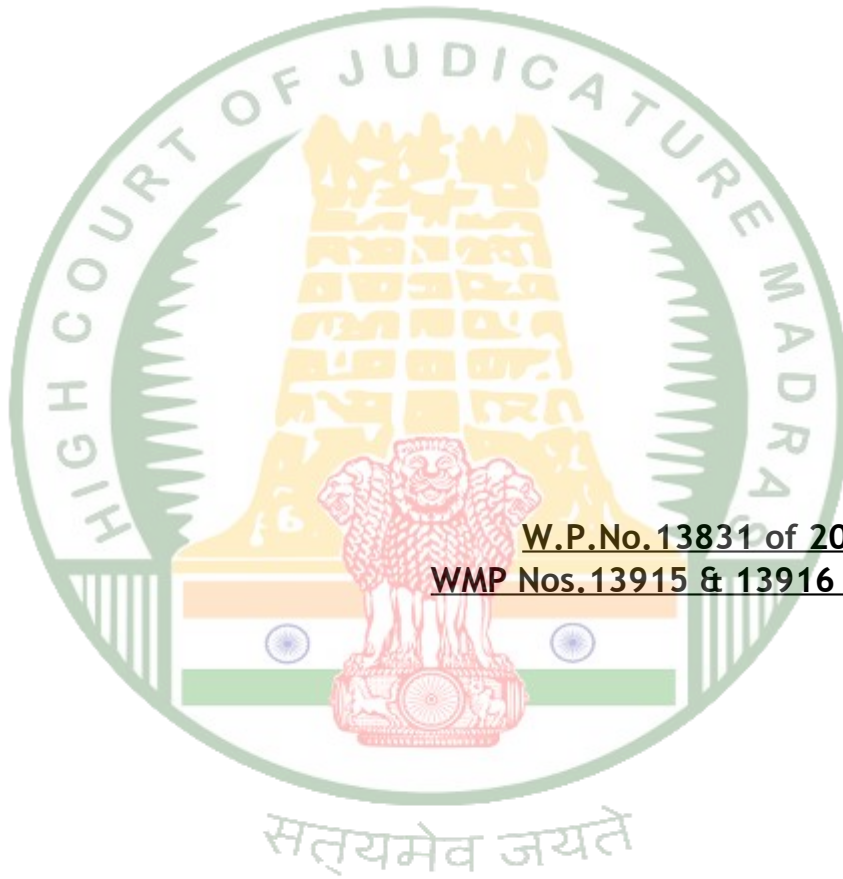
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