

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.01.2020

Coram

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.27534 of 2017 and
W.M.P.No.29425 and 29426 of 2017

T.Alexander

... Petitioner

Vs.

1. The Tamil Nadu Uniformed Services
Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore, Chennai 600 008.
2. The Director General of Police,
Mylapore, Chennai 600 004.
3. The Superintendent of Police,
Dharmapuri, Dharmapuri District.
4. The Inspector of Police,
Harur Police Station,
Dharmapuri District.

... Respondents

Prayer: This writ petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the order of the 3rd respondent in Na.Ka.No.A2/20700/2017 dated 09.10.2017, quash the same and consequently, direct the respondents 1 and 3 to appoint the petitioner as Grade-II Constable in the Tamil Nadu Uniformed Service Recruitment Board, with all other concomitant service benefits, eligible to the petitioner.

For Petitioner : Mr.E.Sathiyaraj

For Respondents : Mr.J.Ramesh, Addl.
Government Pleader
(for R1 to R4)

O R D E R

Challenging the order passed by the 3rd respondent in Na.Ka.No.A2/20700/2017 dated 09.10.2017, this writ petition has been filed by the petitioner.

2. The brief case of the writ petitioner is as follows.

The petitioner had applied for the recruitment to the post of Grade-II Police Constables, Grade-II Jail Wardens and Firemen for the year 2017 and he had successfully completed all the written and physical tests conducted by the respondents and he was selected for the post of Grade-II Police Constable.

2.1. While that being so, the 3rd respondent issued the impugned order dated 09.10.2017, denying the employment, for the reason that the petitioner has suppressed the pendency of the criminal case against him in Crime No.211 of 2017 registered under Sections 147, 294(b), 323 and 506(ii) of Indian Penal Code, in the application form.

2.2. On the date of submitting of his application i.e. on 20.02.2017, no case was registered against the petitioner and that the criminal case was registered only on 07.05.2017 and therefore, he had not suppressed the pendency of the criminal case. The petitioner also filed Crl.O.P.No.20223 of 2017 to quash the F.I.R.No.211 of 2017 and the same is pending before this court for consideration. Hence, the impugned order has to be quashed.

3. The learned Additional Government Pleader submitted that, during the verification of character and antecedent of the petitioner, it was found that he has involved in a criminal case in Crime No.211/2017 registered under Section 147, 294(b), 323, 506(ii) of Indian penal Code and hence, he was not recommended for appointment to the post of Grade-II Police Constable. His contention is that the order passed by the 3rd respondent dated 09.10.2017 is in accordance with law and the same need not be quashed and the claim of the petitioner to re-consider him for appointment to the above said post cannot be considered. He further submitted that the above said criminal case was pending before the Judicial Magistrate Court, Poppyrettypet in C.C.No.47 of 2018.

4. On perusal of materials and after analysing the above submission it reveals that the petitioner had applied for recruitment to the post of Grade-II Police Constable and after completion of all selection process, the petitioner was recommended to the above said post. However, during verification of character and antecedent of the petitioner, it

was found that the the petitioner has involved in a criminal case in Crime No.211/2017 under Section 147, 294(b), 323 and 506 (ii) of Indian Penal Code, order was issued on 09.10.2017 denying the appointment of the petitioner.

5. According to the petitioner, he submitted his application on 20.02.2017, but the criminal case was registered only on 07.05.2017 and hence there is no suppression of pendency of criminal case, on date of submitting his application.

6. At this juncture, it is pertinent to extract the Rule 14(b) of the Tamil Nadu Special Police Subordinate Service Rules, 1978.

(b). No person shall be eligible for appointment to the service by direct recruitment unless he satisfies the appointing authority.

i) that he is of sound health, active habits and free from any bodily defect or infirmity unfitting him for such service and

ii) that his character and antecedents are such as to qualify him for such service and

iii) that such a person does not have more than one wife living.

iv) that he has not involved in any criminal case before police verification

Explanation (1): A person who is acquitted or discharged on benefit of doubt or due to the fact that the complainant turned hostile, shall be treated as a person involved in a criminal case.

Explanation(2): 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 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.

7. Though on the date of submitting his application i.e. on 20.02.2017, the petitioner was not involved in a criminal case, subsequently, a case was registered against him on 07.05.2017 in Crime No.211/2017 under Section 147, 294(b), 323 and 506(ii) of Indian Penal Code and now the same is pending before the Judicial Magistrate, Poppryrettypet in C.C.No.47 of 2018. The pendency of the criminal was found during verification of character and antecedent of the petitioner. As per Rule14(b)(iv), no person shall be eligible for appointment, if he has involved in any criminal case, before police verification. Thus, on the date of verification, the petitioner

was found that he has involved in a criminal case and the same is pending before the Judicial Magistrate. Therefore, the petitioner is not entitled for appointment to the post of Grade-II Police Constable as claimed

8. Accordingly, this writ petition is dismissed. No costs. The connected writ miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mst

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+1cc to Mr.E.Sathiyaraj, Advocate Sr.2345
+1cc to the Government Pleader Sr.2765

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