

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2021

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THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.479 of 2021
and WMP.No.561 of 2021

K.Annamalai

... Petitioner

-vs-

1. The Director General of Police,
Office of the Director General of Police,
Dr.Radhakrishnan Salai, Mylapore,
Chennai - 600 004.
 2. The Chairman,
Tamil Nadu Uniformed Service Recruitment Board,
No.807, P.T.Lee Chengalvaraya Naicker Maaligai,
Annasalai, Chennai - 600 004.
 3. The Superintendent of Police,
Office of the Superintendent of Police,
Villupuram District.
- ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records, from the 3rd respondent dated 11.06.2020 bearing reference No.C.No.A2/10200/2019 which states that the petitioner is not eligible for appointment as Grade II Police Constable as illegal, arbitrary, without jurisdiction, and quash the same and to consequently direct the respondents to consider and issue an appointment order to the petitioner appointing him as Grade II Police Constable in the Tamil Nadu Special Police based on the selection list published by the TamilNadu Uniformed Services Recruitment Board, Chennai - 8 for the year 2019 thereby protecting his seniority based on the rank as he has obtained in the selection, his pay salary from the date on which posting orders were issued to the candidates were selected along with him and treat him as being in service from that date along with subsequent promotions given to others within a time frame fixed by this Court.

For Petitioner : Mr.S.Saravanakumar
For R1 & R3 : Mr.J.Pothiraj, Spl. Govt. Pleader
For R2 : Mr.V.Kathirvelu, Spl. Govt. Pleader

ORDER

The petitioner has come forward with the present writ petition, to quash the proceedings in No.C.No.A2/10200/2019, dated 11.06.2020 passed by the 3rd respondent and for a consequential direction to the respondents to consider and to issue an appointment order to the petitioner appointing him as Grade II Police Constable in the Tamil Nadu Special Police based on the selection list published by the TamilNadu Uniformed Services Recruitment Board, Chennai - 8 for the year 2019.

2. It is the case of the petitioner that the petitioner has filed an application on 15.03.2019 for the post of Grade II Police Constable called for by the Tamil Nadu Uniformed Services Recruitment Board. Admittedly, on that date, there was a criminal case in FIR No.160 of 2017, pending against him wherein the petitioner has been shown as Accused No.9. This Court by an order dated 25.10.2019 in Crl.O.P.No.28110 of 2019, quashed the order made in S.C.No.28 of 2019 on the file of the Sessions Judge, Special Court for Exclusive Trial of cases Registered under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, Villupuram, after hearing the complainant. Hence, according to the petitioner, he is entitled to the aforesaid relief under Rule No.14 (2) in Sub-rule (b) (iv) of the Special Rules for Tamil nadu Special Police Subordinate Service Rules 1978. Rule 14 (2) in Sub-rule (b) (iv) of the Special Rules for Tamil nadu Special Police Subordinate Service Rules 1978 is extracted hereunder for better understanding:

Rule 14(2) in sub-rule (b) (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 the complainant "tuned hostile" shall be treated as 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.

3. Learned Special Government Pleader appearing for R1 & R3 contended that even though there was a criminal case pending against the petitioner, the same was not filled up in the application form, which draws inference that he wantonly suppressed the pendency of criminal case for getting employment in the Police Force. He further contended that the petitioner, without questioning the previous order dated 15.05.2020, attacked the consequential order of the 3rd respondent, which is not maintainable.

4. I find much force in the contention of the learned Special Government Pleader, inasmuch as the petitioner's request was rejected as early as on 15.05.2020 and the petitioner should have received the said communication in the month of May itself. In the subsequent order dated 11.06.2020, it has been categorically stated that the petitioner had duly received the order dated 15.05.2020. The petitioner, for the best reasons known to him, has not challenged the order dated 15.05.2020 and instead, simply made a representation on 26.05.2020, which came to be rejected on 11.06.2020 and the said order a subject matter of the present Writ Petition.

5. Thus, it is obvious that the petitioner has not challenged the order dated 15.05.2020 and has allowed the said order to attain finality. The subsequent order, even if it has been passed, may not be bad in law. A plain reading of Rule 14 (2) in Sub-rule (b) (iv) of the Special Rules for Tamil Nadu Special Police Subordinate Service Rules 1978 extracted supra would make it very clear with regard to the issue involved in this case. However, by suppressing the fact that he had already received the rejection of his request on 15.05.2020, the petitioner has approached this Court. Hence, the petitioner is not entitled to any relief as sought for in this Writ Petition. More so, the petitioner should have stated the period of pendency of the criminal case in that application on the date of filing of the application dated 15.03.2019 and that the order of this Court dated 25.10.2019 made in CrI.O.P.No.28110 of 2019 is not made available in the typeset of papers. That being the case, the rejection order passed by the 3rd respondent is perfectly valid and does not require any interference by this Court.

6. Accordingly, the Writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

VUM

To:

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+1cc to the Government Pleader, S.R.No.6282

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