

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.22770 of 2013

K.Senthilkumar

... Petitioner

Vs

1. The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai 600 004.

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

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records in connection with the impugned order passed by the 2nd respondent in Na.Ka.No.A2/11666/2012 dated 18.02.2013 and quash the same and further direct the first respondent to appoint the petitioner as Grade-II police constable within a reasonable time.

For Petitioner : Mr.S.Sivakumar

For Respondents : Mr.A.N.Thambidurai, Spl.GP

ORDER

The petitioner has come up with this Writ Petition to quash the order passed by the second respondent dated 18.02.2013 and consequently, direct the first respondent to appoint the petitioner as Grade-II Police Constable within a reasonable time.

2.The case of the petitioner is that he was provisionally selected for the post of Grade II Police Constable in Tamil Nadu Police Subordinate Service for the year 2012, however, he was not given appointment stating that he suppressed his involvement of the criminal case in the Verification Roll at the time of submitting the application and accordingly, his candidature was rejected by the second respondent, by order dated 18.02.2013. Aggrieved over the same, the petitioner has come up with this writ petition for the aforesaid relief.

3. Upon notice, the respondents filed a detailed counter affidavit, wherein, it is inter alia stated that while filling up the column nos.15,16 & 18 of the Verification Roll, the petitioner has suppressed the fact regarding his involvement in Thanjavur Taluk Police Station Cr.No.36/2012 for the offences punishable under Sections 294(b), 147, 148, 323, 324 and 506(ii) IPC as AI; though he was acquitted on 28.11.2012 by the Judicial Magistrate, Thanjavur, the same was not on merits, but on the ground that the prosecution witnesses turned hostile and the charges framed against him were not proved beyond reasonable doubt; by virtue of explanation 1 to clause (iv) of Rule 14(b) of TNSPSS Rules, a person acquitted on benefit of doubt or discharged in a criminal case, can still be considered as disqualified for selection to the Police service; and therefore, the petitioner was not given appointment order and his candidature was rejected by the second respondent.

4. The learned counsel for the petitioner submitted that based on the false complaint, the criminal case was registered against the petitioner, however he was acquitted by the Judicial Magistrate-II, Thanjavur, prior to apply the post in question and therefore, under bonafide impression, he stated in the application that there is no criminal case pending against him. Without considering the same in a proper perspective, the second respondent passed the order rejecting the candidature of the petitioner for appointment to the post of Grade II Police Constable. The learned counsel further submitted that the non disclosure of his involvement in the criminal case in the Verification Roll by the petitioner is not an intentional one, but due to inadvertent mistake. Therefore, the writ petition may be allowed by setting aside the order impugned herein.

5. Per contra, the learned Special Government Pleader appearing for the respondents submitted that in a matter of public employment, the applicant should be vigilant and has to fill up the application in a proper manner, whereas the petitioner did not disclose his bad antecedents in the verification roll, which is suppression of material fact. On coming to know about the same and after enquiry, the second respondent rightly passed the order dated 18.02.2013 rejecting the candidature of the petitioner for appointment to the post in question. He further submitted that as the police force is a disciplined force, honesty and integrity are inbuilt requirements of the police personnel and therefore, the petitioner, having criminal antecedents and bad character, does not deserve to enter into the police force.

6. Heard both sides and perused the materials placed before this Court.

7.The facts remain that the petitioner was involved in a criminal case, but he was acquitted from the same. Thereafter, he applied for the post in question and while filling up the said application, he failed to disclose his involvement of the criminal case. Pointing out the same as suppression of material facts, the second respondent rejected the candidature of the petitioner, though he was provisionally selected for the post in question. Hence, this writ petition.

8.Though the learned counsel for the petitioner contended that the petitioner was acquitted prior to the filling up of the application form and therefore, he cannot be said to have suppressed any information, the same cannot be countenanced by this Court. The recruitment has to be done as per the guidelines as well as the Standing Order governing the recruitment of constables. As per Rule 14(b)(ii) of Special Rules for Tamil Nadu Special Police Subordinate Services, no person shall be appointed to that service, unless he satisfies the appointing authority that his character and antecedents are such as to qualify him for such service. It is an admitted fact that the petitioner failed to disclose his involvement in the criminal case at the earliest point of time, which amounts to suppression of material fact. Further, mere acquittal in the criminal case on the basis of the prosecution witnesses turning hostile cannot be construed as acquittal on merits. Therefore, the petitioner being appointed as a police constable, needs to exhibit higher degree of conduct and discipline, besides maintaining impeccable integrity and track record and the acquittal of him from the criminal case is in no way change his bad antecedents. As such, the second respondent has rightly rejected his candidature for appointment to the post of Grade II Police Constable, on the ground of concealment of material fact, irrespective of outcome of the criminal case.

10.At this juncture, it is worthwhile to refer to the decision of the Supreme Court in Commissioner of Police, New Delhi and Another v. Mehar Singh, (2013) 7 SCC 685], wherein, emphasizing upon the importance of character and integrity required for joining police force/discipline force, it was observed as under:

"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."

11. In *Avtar Singh v. Union of India and Others* (2016) 8 SCC 471, while considering the question of suppression of relevant information or false information in regard to criminal prosecution, arrest or pendency of criminal case(s) against the candidate, three-Judges Bench of the Supreme Court summarized its conclusion in paragraph 38. As per the said decision in paragraph 38.5, "in a case where the employee has made declaration truthfully of a concluded criminal case, the employer still has the right to consider antecedents, and cannot be compelled to appoint the candidate". Thus, it is 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 suitable for appointment to the post.

12. In a recent decision in *State (UT of Chandigarh) v. Pradeep Kumar* [2018(1) SCC 797], it was held by Supreme Court as follows:

"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 suitable for appointment to the post. From the observations of this Court in *Mehar Singh and Parvez Khan* cases, it is clear that a candidate to be recruited to the police service must be of impeccable character and integrity. A person having criminal antecedents will not fit in this category. Even if he is acquitted or discharged, it cannot be presumed that he was honourably acquitted/completely exonerated. The decision of the Screening Committee must be taken as final unless it is shown to be mala fide. The Screening Committee also must be alive to the importance of the trust reposed in it and must examine the candidate with utmost character.

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15. From the above details, we find that the Screening Committee examined each and every case of the respondents and reasonings for their acquittal and taken the decision. While deciding whether a person involved in a criminal case has been acquitted or discharged should be appointed to a post in a police force, nature

of offence in which he is involved, whether it was an honourable acquittal or only an extension of benefit of doubt because of witnesses turned hostile and flaws in the prosecution are all the aspects to be considered by the Screening Committee for taking the decision whether the candidate is suitable for the post. As pointed out earlier, the Screening Committee examined each and every case and reasonings for their acquittal and took the decision that the respondents are not suitable for the post of Constable in Chandigarh Police. The procedure followed is as per Guideline 2(A)(b) and object of such screening is to ensure that only persons with impeccable character enters police force. While so, the court cannot substitute its views for the decision of the Screening Committee.

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17. In a catena of judgments, the importance of integrity and high standard of conduct in police force has been emphasized. As held in Mehar Singh case, the decision of the Screening Committee must be taken as final unless it is mala fide. In the case in hand, there is nothing to suggest that the decision of the Screening Committee is mala fide. The decision of the Screening Committee that the respondents are not suitable for being appointed to the post of Constable does not call for interference. The Tribunal and the High Court, in our view, erred in setting aside the decision of the Screening Committee and the impugned judgment is liable to be set aside."

12. Applying the aforesaid legal principles to the facts of the present case, this Court is of the opinion that the petitioner is not eligible for appointment to the post of Grade II Police Constable and hence, the order of the second respondent rejecting his candidature, warrants no interference.

13. In the result, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai 600 004.

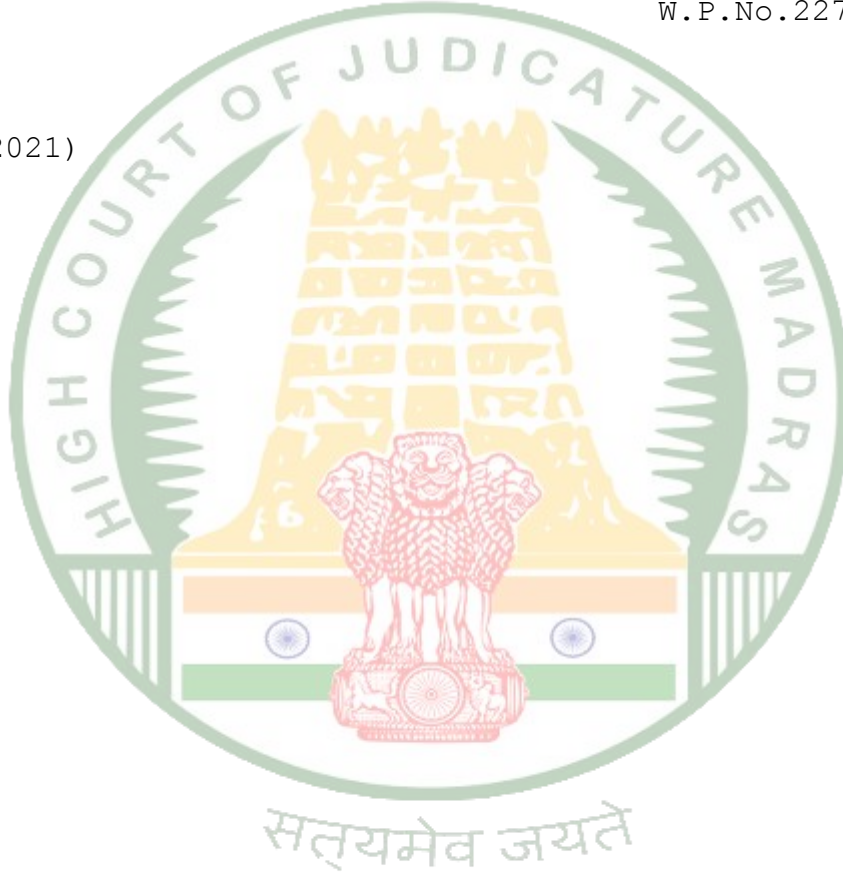
2. The Superintendent of Police,
Tanjore District, Tanjore.

+lcc to Mr.S.Sivakumar, Advocate, S.R.No. 303

+lcc to the Government Pleader, S.R.No. 167

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GMI (CO)
GN(08/07/2021)



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