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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.17694 of 2021
and
W.M.P.No.18859 of 2021
(Through Video Conferencing)

V.Ramadurai ... Petitioner

Vs

1.The Chairman,
The Tamil Nadu Uniformed Service
Recruitment Board,
Anna Salai,
Chennai - 600 002.

2.Deputy Inspector General of Police,
Vellore Range,
Anna Salai, KK Nagar,
Palavansathu,
Thorapadi,
Vellore District - 632 001. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified Mandamus, calling for the records pertaining to Na.Ka.No.A2/5178/2021 dated 02/06/2021 order passed by the Second Respondent and to quash the same and consequently to direct the Respondent to select the First Petitioner for the post of Sub Inspector of Police.

For Petitioner : Mr.M.Madhuprakash

For Respondents : Mr.V.P.R.Elamparithi
Government Advocate



ORDER

The petitioner has filed this writ petition for a Writ of Certiorarified Mandamus, to call for the records pertaining to the order dated 02.06.2021 passed by the second respondent, quash the same and for a consequential direction to the respondents to select the petitioner to the post of Sub Inspector of Police.

2. By the impugned order, the second respondent has rejected the candidature of the petitioner to the post of Sub Inspector of Police filed by petitioner in response to an advertisement given by the first respondent Tamil Nadu Uniformed Services Recruitment Board. In the application, the petitioner had not stated either any criminal case has been registered against him.

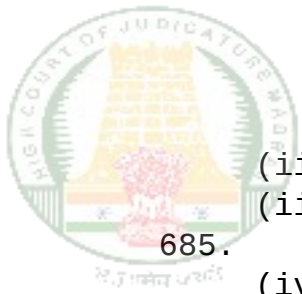
3. It is the case of the petitioner that on 31.07.2015 while playing cricket, the petitioner had disputed with the rival team which resulted in filing of a criminal complaint in Crime No.2570 of 2015. Though the case was registered against the petitioner for the offences under Sections 294(b), 323, 341 and 506(i) of IPC, later, the dispute between the petitioner and the defacto complainant, namely Sudhakar was compromised and in the light of the above compromise, the criminal complaint filed against the petitioner, wherein, a charge sheet was filed during 2017 which culminated in the aforesaid complaint being taken on file in C.C.No.136 of 2017, which was disposed of by an order dated 05.10.2017, acquitting the petitioner from all the charges.

4. It is further case of the petitioner that in view of his acquittal, and as there was no other criminal case was pending against the him, he was under impression that he was not required to disclose the same in the application.

5. The learned counsel for the petitioner submits that rejection of the petitioner candidature vide impugned order, cannot be sustained in view of Rule 13 of the Special Rules for Tamil Nadu Police Subordinate Service Rules.

6. The learned counsel for the petitioner submits that the issue is no longer res integra and is covered by the following decisions:-

(i) Commissioner of Police Vs Sandeep Kumar,
(2011) 4 MLJ 1006 (SC)



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- (ii) Pawan Kumar Vs State of Haryana, AIR 1996 SC 3300
- (iii) Commissioner of Police Vs Mehar Singh, (2013) 7 SCC 685.
- (iv) Inspector of Police Vs S.Samuthiram, (2013) 1 SCC 598.
- (v) Ram Kumar Vs State of Uttar Pradesh, (2011) 6 CTC 440

7. Defending the impugned order of the second respondent, the learned Government Advocate for the respondents submits that the petitioner suppressed his involvement in Crime No.2570 of 2015 which was taken on file by the Criminal Court in C.C.No.136 of 2017 and therefore it was mandatory on the part of the petitioner to disclose the same in the application filed by the petitioner pursuant to the call letter of the Tamil Nadu Uniformed Services Recruitment Board. He therefore submitted that the impugned order has been correctly passed in accordance with the provisions of the Special Rules for Tamil Nadu Police Subordinate Service Rules and also as per the decisions of the Court.

8. The learned Government Advocate for the respondents also relied on the decision of the Hon'ble Supreme Court in Commissioner of Police Vs Mehar Singh", (2013) 7 SCC 685, wherein the Hon'ble Supreme Court has observed as follows:-

"25. It is difficult to define what is meant by the expression "honourably acquitted". This Court expressed that when the accused is acquitted after full consideration of the prosecution case and the prosecution miserably fails to prove the charges levelled against the accused, it can possibly be said that the accused was honourably acquitted."

9. Heard the leaned counsel for the petitioner and the learned Government Advocate for the respondents. I have perused the impugned order and Rule 13 of the Special Rules for Tamil Nadu Police Subordinate Service Rules.

10. Rule 13 of the Special Rules for Tamil Nadu Police Subordinate Service Rules which has been cited against the petitioner reads as follows:-

"13. No person shall be eligible for appointment to the service by direct recruitment unless he satisfies the appointing authority.



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

(b) that his character and antecedents are such as to qualify him for such service.

(c) that such person does not have more than one wife living; or if such person is a woman, that she is not married to any person who has a wife living and

(d) that he does not have knock knees or bow legs to flat feet.

(e) that he has not been involved in any criminal case before Police verification:

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

Explanation (2) - A person involved in a criminal case at that 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."

11. The explanation (1) which has been extracted above indicates that the person who is acquitted or discharged on account of benefit of doubt or due to the fact that the complainant turned hostile shall be treated as a person involved in a criminal case.

12. Further, explanation (2) states that 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 that such person can claim right for appointment only by participating in the next recruitment.

13. Rule 13 specifically states that no person shall be eligible for appointment to the service by direct recruitment unless he satisfies the appointing authority that he/she was not involved in any criminal case before Police verification. Sub



Rule 13(e) was inserted vide G.O.Ms.No.882 Home (Police VI) Department dated 12.06.2007.

14. This Court while passing the order in the present writ petition took note the decisions of the Hon'ble Supreme Court in Avtar Singh Vs Union of India, (2016) 8 SCC 471 and in Commissioner of Police, New Delhi and another Vs Mehar Singh, (2013) 7 SCC 685 and few other decisions of this Court.

15. In this case, the decision of the Hon'ble Supreme Court in Avtar Singh Case (cited supra), suitability of, a person can be incidentally examined by the Department. In this case, though charges were framed against the petitioner under Sections 294(b), 323, 341 and 506(i) of IPC, it is evident that the complaint was filed by a person belonging to the rival team and therefore there was a rivalry between the petitioner and the aforesaid person. Both of them are players who were playing cricket and the petitioner would have been aged about 25 to 26 years at the time of alleged involvement in the aforesaid crime.

16. Mere Police Complaint cannot be the disadvantage of the person accused of crime if the defacto complainant chooses not to pursue with it seriously. In any event, in this case, no criminal proceeding was pending against the petitioner at the time of filing application, in 2019 as the petitioner had already been acquitted on 05.10.2017.

17. Considering the same, I am inclined to allow this writ petition by directing the respondents to absorb the petitioner into service within a period of eight weeks from the date of receipt of a copy of this order.

18. This Writ Petition stands allowed with the above observations. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-VI)

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Sub Assistant Registrar



1.The Chairman,
The Tamil Nadu Uniformed Service,
Recruitment Board,
Anna Salai,
Chennai - 600 002.

2.Deputy Inspector General of Police,
Vellore Range,
Anna Salai, KK Nagar,
Palavansathu,
Thorapadi,
Vellore District - 632 001.

+2cc to M/s.M.Madhu Prakash, Advocate, S.R.No.42830
+1cc to the Government Pleader, S.R.No.42999

W.P.No.17694 of 2021
and
W.M.P.No.18859 of 2021

KK(CO)
SB(05/10/2021)