



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.08.2021**

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

Review Application Writ(MD)No.54 of 2021
in
W.P(MD).No.12195 of 2018

Duraisingam

...Review Petitioner

Vs.

1.The Chairman,
Tamil Nadu Uniformed Service Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road,
Egmore, Chennai-600 008.

2.The Director General of Police,
O/o.The Director General of Police,
Chennai-4.

3.The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.

... Respondents

PRAYER : Review Petition filed under Order 47 Rule 1 & 2 read with Section 114 of the Civil Procedure Code to review the order passed in W.P.(MD)No.12195 of 2018 dated 10.05.2019 on the file of this Court.

Prayer in WP(MD). 12195 of 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records pertaining to the impugned order in C.No.A3/30361/2017 dated 24.04.2018 passed by the respondent No.3 and quash the same as illegal and for consequential direction, directing the respondents to appoint the petitioner (Registration Number. 2808294) as Grade-II constable, in the Tamil Nadu Uniformed Services Recruitment Board 2017 forthwith.

For Petitioner : Mr.R.Venkatesan
For Respondents : Mr.R.Sureshkumar
Government Advocate



ORDER

This Review Application has been filed challenging the order passed by this Court dated 10.05.2019 made in W.P.(MD)No.12195 of 2018. The review petitioner had appeared for selection process to the direct appointment to the post of Grade II Police Constable. His application was rejected by Order dated 24.04.2018. Challenging the same, the writ petition was filed. The said writ petition along with many number of writ petitions with the similar issue had been grouped together and after hearing, the petitions were disposed of, by a common order of this Court made in W.P.(MD)No.8756 of 2018, etc batch, dated 10.05.2019. In the said common order, the cases were categorized under three categories, wherein under category I, those cases were allowed and positive directions were given to the respondents to reconsider the candidature for appointment. In category II, the matters were remanded back to the respondents for reconsideration, where the sole discretion is vested with the respondents as per the law declared in this regard by a number of judgments of the Hon'ble Supreme Court, which had been exhaustively discussed in the said common order. In category III, those cases had been outrightly rejected through the said common order.

2.The case of the review petitioner that is, the petitioner in W.P.(MD)No.12195 of 2018 is that, his case was categorized as III category. In this context, it is the grievance of the petitioner that, though in the impugned order in the writ petition, a different reason has been stated as if that the petitioner though had been acquitted in the criminal case, he had not been given the honourable acquittal and he had been acquitted only on benefit of doubt, the main reason according to the said common order was that since the petitioner had not disclosed the said involvement in the criminal case in the application, the candidature of the petitioner in the writ petition filed by the petitioner was categorized under III category.

3.In this context, Mr.R.Venkatesan, the learned counsel appearing for the petitioner has pointed out that, two reasons had been given for rejection, one is for not disclosing the involvement of the criminal case in the application and second reason is that the petitioner was acquitted only on benefit of doubt. The first reason that not disclosing the involvement of criminal case in the application is not made available in the impugned order, that is, in the rejection order passed by the authority. Therefore, it has been wrongly mentioned in the common order passed by this Court. Therefore, candidature of the petitioner should have been placed in the I category or II category and it should not have been placed in the III category. Therefore, on that ground, the impugned order insofar as the petitioner in W.P.(MD)No.12195 of 2018 is concerned is to be reviewed.



4.I have heard the learned Government Advocate appearing for the respondents.

5.Insofar as the reasons cited and the findings given in the table, which formed part of the said common order is concerned, no doubt two reasons have been stated in the common order, one is that not disclosed in the application and the other reason is acquittal on benefit of doubt.

6.Insofar as these two reasons are concerned, ofcourse, in respect of the first reason, that is, not disclosed in the application is concerned, in the rejection order of the respondents dated 24.04.2018, as has been pointed out by the learned counsel for the review petitioner, it has been mentioned that the petitioner has involved in the criminal case in Keelathooval Police Station in Crime No.23 of 2016 and the same was pending trial in Court. So, insofar as the pendency of the said case at the time of making application is concerned, it was not the allegation against the petitioner that he has not disclosed the said involvement in the criminal case. Therefore, the said reason given for categorizing the petitioner under III category may not be justifiable, ofcourse, the same can be accepted.

7.However, insofar as the second reason namely, acquittal on benefit of doubt is concerned, it has been made clear in the order dated 24.04.2018 of the respondents that the case was ended in acquittal subsequently on 17.08.2017 and on perusal of the judgment, it was found that the acquittal is on benefit of doubt and therefore, as per the Explanation 1 of Rule 13(e) of the relevant rules that a person who is acquitted on benefit of doubt shall be treated as a person involved in a criminal case and therefore, the candidature of the petitioner is rejected under Rule 14 (b) (ii) a (iv) of the Tamil Nadu Special Police Subordinate Service Rules. This reason also had been stated by categorizing the petitioner under III category in the order, which is sought to be reviewed.

8.Insofar as the candidates whose cases were grouped together and heard and disposed of by a common order, this Court has categorized all those, who have been acquitted on benefit of doubt only in III category. The reason for categorizing those people, who have been acquitted by way of benefit of doubt in III category has been elaborately discussed in the common order and therefore, there is no wonder in categorizing the petitioner also under III category, in view of the fact that the acquittal is not a hon'ble acquittal, but it is only on benefit of doubt. Therefore, there can be no reason available for the petitioner to review the order insofar as the petitioner in WP.(MD)No.12195 of 2018 is concerned, which is form part of the common order.



9. In that view of the matter, this Court feels that there is no ground to interfere in the order and therefore, the order in W.P. (MD)No.12195 of 2018 dated 10.05.2019 need not be reviewed. Accordingly, this review Application is dismissed. No costs.

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Sd/-

Assistant Registrar(CS-II)

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Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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Tamil Nadu Uniformed Service Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road,
Egmore,
Chennai-600 008.

2. The Director General of Police,
O/o. The Director General of Police,
Chennai-4.

3. The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.

Order made in
Review Application Writ(MD)No.54 of 2021

in
W.P(MD) .No.12195 of 2018

Dated: **09.08.2021**

es (CO)

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