



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DELIVERED ON:

09.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD)Nos.3450 & 6542 of 2020

and W.M.P. (MD) Nos.2903, 2905 & 5888 of 2020

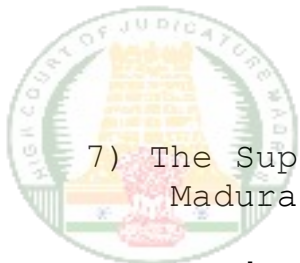
(Through Video Conference)

M.Manimuthu ... Petitioner in W.P.(MD)No.3450 of 2020

P.Arunkumar ... Petitioner in W.P.(MD)No.6542 of 2020

Vs.

- 1) The Director General of Police,
Office of the Director General of Police,
Radhakrishnan Salai, Mylapore,
Chennai 600 009 ... R1 in both W.P.'s
- 2) The Additional Director General of Police/
Inspector General of Prisons,
Department of Prison,
Venals Road, Egmore,
Chennai 600 008 ... R2 in W.P.(MD)No.3450 of 2020
- 3) The Commissioner of Police,
Trichy City, Trichy. ... R3 in W.P.(MD)No.3450 of 2020
- 4) The Member Secretary,
Tamil Nadu Uniformed
Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai 600 008 ... R4 in W.P.(MD) No.3450 of 2020 &
R3 in W.P.(MD) No.6542 of 2020
- 5) The Chairman,
Tamil Nadu Uniformed
Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai 600 008 ... R5 in W.P.(MD) No.3450 of 2020 &
R2 in W.P.(MD) No.6542 of 2020
- 6) The Inspector of Police,
Woraiyur Police Station,
Woraiyur, Trichy. ... R6 in W.P.(MD) No.3450 of 2020



7) The Superintendent of Police,
Madurai District, Madurai. ... R4 in W.P.(MD) No.6542 of 2020

PRAYER in W.P. (MD) No.3450 of 2020: Petition filed under Article 226 of the Constitution of India to issue a Writ of **Certiorarified Mandamus**, to call for the records pertaining to the impugned order passed of the 3rd respondent by vide proceedings in Na.Ka.No.A2/22704/2018 dated 01.11.2018 and quash the same and consequently direct the respondents to appoint the petitioner (Roll No.1605328) to the post of Grade -II Police Constable in respect of selection made as per notification made in Advertisement N.1/2019 dated 06.03.2019.

PRAYER in W.P. (MD) No.6542 of 2020: Petition filed under Article 226 of the Constitution of India to issue a Writ of **Certiorarified Mandamus**, calling for the records pertaining to the impugned proceedings issued by the fourth respondent in Na.Ka.No.B1/4339/2020 dated 23.05.2020 and quash the same and consequently direct the respondents to appoint the petitioner in the post of Police Constable Grade II on the basis of the common recruitment 2019 provisional selection list published on 04.02.2020 forthwith.

In W.P. (MD) No.3450 of 2020:

For Petitioner : Mr.J.Anand Kumar

For Respondents : Mr.K.Chellapandian,
Additional Advocate General

In W.P. (MD) No.6542 of 2020:

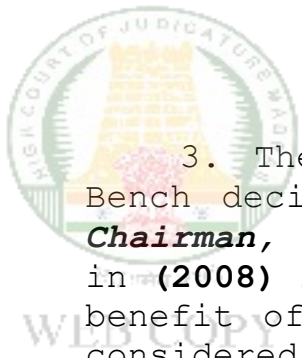
For Petitioner : Mr.C.Jeganathan

For Respondents : Mr.K.Chellapandian,
Additional Advocate General

C O M M O N O R D E R

In both these writ petitions, the petitioners' involvement in criminal cases, have been cited as a reason for disqualifying them for appointment to the post of Grade II Police Constables, in the Common Recruitment Process-2019, held by the Tamil Nadu Uniformed Services Recruitment Board (TNUSRB).

2. It is stated by the respondents that these petitioners have suppressed the fact of their involvement in the criminal case, either in their application form or during the verification roll.



3. The respondents have mainly placed reliance on the Full Bench decision of this Court in the case of **Manikandan vs. the Chairman, Tamil Nadu Uniformed Services Recruitment Board** reported in **(2008) 2 CTC 97** wherein it was held that, 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, which is neither illegal nor unjustifiable. The decision of the Hon'ble Full Bench in **Manikandan's case** (cited supra) was affirmed by a Larger Bench of Five Judges of the Madras High Court in the case of **J. Alex Ponseelan vs. the Director General of Police and others**.

4. After the pronouncements by the Hon'ble Five Bench on 27.02.2014, there has been a transgression on the law relating to the procedure to be adopted while conducting recruitment to the uniformed services.

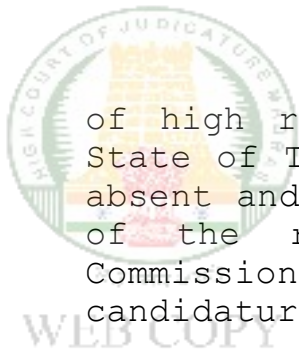
5. In **Joginder Singh vs. Union Territory of Chandigarh and others** reported in **(2015) 2 SCC 377**, an honourable acquittal in the criminal case was carved out of the guidelines, as an exception to disqualification.

6. Later, in the case of **Avtar Singh vs. Union of India and others** reported in **(2016) 8 SCC 471**, non-disclosure of the involvement in a criminal case by a candidate at his/her young age or for a petty offence or cases that are trivial in nature, were recommended for condonation and was held that suppression of such involvement, could be ignored.

7. Likewise, in **Commissioner of Police & others vs. Sandeep Kumar** reported in **(2011) 4 SCC 644**, it was held that young people, aged about 20 years and less, often commit indiscretions and such indiscretions could be condoned, rather than to brand them as criminals for the rest of their lives.

8. In this background, it is realised that the law relating to the procedure to be adopted during Recruitment to the Uniformed Services have been time and again moderated by the Hon'ble Apex Court in these decisions. Thus, the Recruitment Board are required to scrupulously apply the ratio laid down by the Hon'ble Supreme Court, while considering the candidatures of individual cases. However, this requirement has been ignored in the present cases.

9. One common feature evidenced in most of the decisions before the Hon'ble Apex Court was that the recruitment procedures for the Police Departments across the country were required to cross the stage of scrutiny by 'a Screening Committee' consisting



of high ranking officials. Insofar as the Police Department of State of Tamil Nadu is concerned, such a 'Screening Committee' is absent and the Appointing Authority viz. Superintendents of Police of the respective Districts of Tamil Nadu or the Deputy Commissioners of Police in the metropolitan cities, scrutinize the candidatures.

10. When this Court was of the view that the presence of a Screening Committee would have facilitated evasion of indiscriminate rejections and called upon the respondents to explore the possibility of forming a Screening Committee, the learned Additional Advocate General, after obtaining instructions, produced a copy of the proceedings of Director General of Police in Rc.No.001455/Rect1(2)/2021 dated 22.02.2021, stating that, for the process of recruitment of Grade II Police Constables in the State of Tamil Nadu is concerned, the Appointing Authority, namely the Superintendents of Police in the Districts of Tamil Nadu (or) the Deputy Commissioners of Police in the cities, play the role of a Screening Committee, whereby, they are required to cause police verification of the character and antecedents of the provisionally selected candidates; subject the candidates to medical examination through the Medical Board; scrutinize the records; and thereafter issue appointment orders. In view of the screening done by the Appointing Authority themselves, the Director General of Police, has expressed their inability to form a separate Screening Committee.

11. This apart, the proceedings of the Director General of Police dated 22.02.2021 also states that the appointing Authorities, who play the role of the Screening Committee, have been instructed to consider the guidelines while dealing with the candidature of the applicants. The following are such of those guidelines:

" 7. The following points should also be considered before issuance of the endorsement:-

- a. Every case has to be judged on its merit.*
- b. "Honourable acquittal" restores the right of individual. Hence honourable acquittal before the date of police verification means that the candidate must be considered favourably.*
- c. A case referred on "Mistake of Fact" has to be favourably viewed for the candidate.*
- d. Discharge on technical grounds (hostile witnesses) does not entitle the candidate for automatic clearance and the appointing authorities may still reject the candidature on ground of unsuitability to do the nature of the duty.*

<https://hcservices.ecourts.gov.in/hcservices/> *Suppression of involvement in a case still*



under investigation or trial or not ending in honourable acquittal is a ground sufficient for rejection of the candidate.

f. Petty cases should not lead to over penalization.

8. It is also informed that the following types of candidates were considered for appointment to the post of SI of Police/Gr.II PCs on earlier occasions.

- i) The candidates acquitted honourably prior to Police Verification.
- ii) The persons released under probation of offenders act were treated as not involved in a criminal case, in view of section 12 of the PO Act 1958 which stipulates that convicts released on Probation of Conduct Act or after admonition by the Court shall not suffer any disqualification attached to the conviction.
- iii) The persons released under Juvenile Act were treated as not involved in a criminal case. Section 19 of the Juvenile Justice (Care and Protection of Children) Act 2000 which stipulates that a juvenile has committed an offence and has been dealt with under provision of this act shall not suffer disqualification, if any attached to conviction of an offence under such law.
- iv) If any political affiliation on the candidate comes to notice during the Police Verification, it will not be held against him, unless he is having other bad antecedents. However, he shall be instructed not to be involved in such activities as per conduct rules.
- v) The candidate whose names are deleted from the charge sheet.
- vi) The cases treated as Mistake of fact prior to police verification.
- vii) Some of the candidates involved in petty cases were considered.
- viii) Accident cases were considered if the case was pending at the time of police verification and if there was no suppression of fact.
- ix) The case in which the I.O registered the case against a minor candidate under IPC and not under Juvenile Justice Act, his case was considered for appointment.
- x) The cases where fine was imposed upto Rs.2,000/- were considered.

9. The date of Police Verification is the date on



which the verifying Officer (i.e. Not below the rank of SI of Police) is Counter signing the verification Roll.

10. The persons who are acquitted under benefit of doubt (or) hostility of complainant will be treated as involved in criminal case and he will not be considered for appointment as per Rule 14(b) of TNSPSS Rules (or) Rule 13 of TNPSS Rules."

12. The instructions of the Director General of Police also states that these guidelines are in accordance with the directions of the Hon'ble Supreme Court and the relevant rules and that the above guidelines "should" also be considered before issuance of the endorsement (i.e.) before rejection of a candidature. Thus, such guidelines are deemed to be mandatory and the Authority scrutinizing the applicants' candidatures, would have to necessarily abide by them.

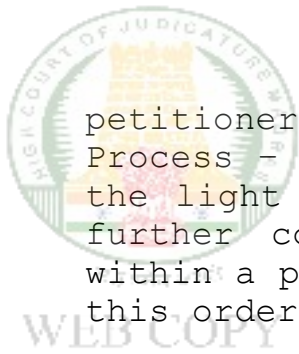
13. Insofar as the cases involved in the present writ petitions are concerned, the candidature of the petitioners were rejected, on the ground that they were involved in criminal cases and their involvement have been suppressed either in the Application form or during verification roll or both.

14. One common feature found in the aforesaid two cases is that the petitioners herein have been implicated in criminal cases, in which, the fine amount of Rs.2000/- or less than Rs.2,000/-, was imposed on them. Insofar as the petitioner in W.P. (MD) No.3450 is concerned, the

petitioner was imposed with a fine amount of Rs.500/- and the petitioner in W.P.(MD) No.6542 was imposed with a fine amount of Rs.2000/-

15. As per clause 8(x) of the Guidelines of the Director General of Police dated 22.02.2021, the cases where fine amount was imposed upto Rs.2000/- was considered during the earlier recruitment processes and accordingly, instructions were also given to the Appointing Authorities to consider similar cases. This aspect has not been taken note of by the Appointing Authority, insofar as these petitioners are concerned, since the fine amount in both the cases are less than Rs.2000/- and therefore, the candidatures of these two candidates would require reconsideration.

16. Accordingly, there shall be a direction to the concerned Superintendents of Police of the various Districts in Tamil Nadu/ Deputy Commissioners of the cities, to whose jurisdiction the



petitioners herein are subjected for the Common Recruitment Process - 2019, to re-scrutinize the petitioners' candidatures, in the light of the observations made in the present order and take further course of action, in the recruitment process, atleast within a period of six weeks from the date of receipt of a copy of this order.

17. The writ petitions stand allowed accordingly. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(T & P)

// True Copy //

/ /2021

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:

- 1) The Director General of Police,
Office of the Director General of Police,
Radhakrishnan Salai, Mylapore,
Chennai 600 009
- 2) The Additional Director General of Police/
Inspector General of Prisons,
Department of Prison,
Venals Road, Egmore,
Chennai 600 008
- 3) The Commissioner of Police,
Trichy City, Trichy.
- 4) The Member Secretary,
Tamil Nadu Uniformed
Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore, Chennai 600 008



5) The Chairman,
Tamil Nadu Uniformed
Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore, Chennai 600 008

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6) The Inspector of Police,
Woraiyur Police Station,
Woraiyur, Trichy.

7) The Superintendent of Police,
Madurai District, Madurai.

+1 CC to M/s.SPL GP (SR-16042[F] dated 16/04/2021)

Common Order made in
W.P. (MD) Nos. 3450 & 6542 of 2020
Dated: **09.04.2021**

MA (CO)
TR(22.04.2021) 8P 9C