



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.07.2021

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THE HONOURABLE MR.JUSTICE T. S. SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A. (MD)No.534 of 2019

Sekar

... Appellant/Petitioner

Vs.

1.The Director General of Police,
Tamilnadu,
Police Head Quarters,
No.1, Dr.Radhakrishnan Salai,
Mylapore, Chennai - 4.

2.The Member Secretary,
Tamilnadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai - 08.

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

... Respondents/Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent against the order passed by this Court in W.P.(MD)No.2749 of 2019, dated 13.03.2019.

Prayer in WP(MD). 2749 of 2019 :

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 relating to the impugned order vide Na.Ka.No.A3/1001/2018 dated 28.11.18 on the file of the 3rd respondent and quash the same and consequently direct the respondents to give the petitioner an appointment order in connection with the Common Recruitment for the posts of Grade-II Police Constable (Men, Women and Transgender), Grade-II Jail Warder (Men and Women) and Fireman for the year 2017-2018.

For Appellant : Mr.R.Venkateswaran

For Respondents : Mr.A.K.Manickam
Standing Counsel for Government

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**J U D G M E N T****(Judgment of the Court was delivered by T. S. SIVAGNANAM, J.)**

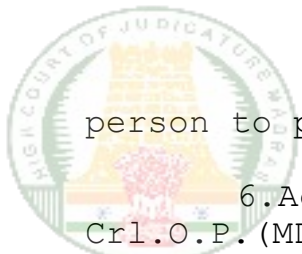
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This Writ Appeal by the Writ Petitioner is directed against the order dated 13.03.2019 in W.P.(MD) No.2749 of 2019.

2.The appellant questioned his non-selection to the post of Grade II Police Constable in the Tamil Nadu Police Services owing to the fact that he was arrayed as an accused in a criminal case in Crime No.86 of 2016, on the file of Elenchembur Police Station for alleged offences under Sections 147, 148, 294(b), 341, 323, 336, 506 (ii), 307 I.P.C. And Section 3 of Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992, dated 12.10.2016. The respondent Department held that the appellant having been arrayed as 10th accused, his character and antecedent have been found to be unsatisfactory and his candidature was rejected as per the guidelines issued in Rule 13(b) & (e) of Tamil Nadu Police Subordinate Service Rules. The correctness of the order was questioned by the petitioner in the Writ Petition, which was dismissed.

3.We have elaborately heard Mr.R.Venkateswaran, learned counsel for the appellant and Mr.A.K.Manickam, learned Standing Counsel for Government, appearing for the respondents.

4.The fact that the petitioner's name found place in the F.I.R. is not disputed and he was arrayed as 10th accused. The case of the appellant is that there was no suppression of the said fact. While he applied for the said post, he has mentioned about it. In the F.I.R. there is no specific overtact against the appellant and he did not approach this Court by way of quash petition in CrI.O.P. (MD) No.20765 of 2016. The persons, who approached the Court for quashing the proceedings are Accused Nos.1, 8, 9 & 20. The Court has quashed the proceedings on the ground that those petitioners have agreed to donate a sum of Rs.50,000/- to Rajaji Home for the Aged and they have produced proof of payment and a joint compromise memo was filed to that effect and the F.I.R. was quashed.

5.It is further stated that though the name of the appellant was mentioned in the F.I.R. and he was arrayed as Accused No.10, there was no specific overtact against the appellant and he did not move for anticipatory bail. Further, it is submitted that after 15 days, the entire matter has been closed. The details of the criminal case has been disclosed by the appellant while applying for the said post, which is two years later, after the said case has been registered and closed. In the interregnum the appellant did not involve in any offence. Furthermore, it is the Government policy that whenever a complaint has been registered against a person and the matter has been closed, the benefit should be granted to the



person to participate in the recruitment to any uniformed service.

6. According to the appellant, because of the order passed in Cr1.O.P.(MD) No.20765 of 2016, the F.I.R. has been closed and hence, the benefit should be granted to the appellant, who applied for Grade - II Police Constable post. The above issue has not been specifically dealt with by the learned Single Bench. Even in the counter affidavit filed in the Writ Appeal by respondent No.3, it is not specifically pointed out that the appellant was party to Cr1.O.P.(MD) No.20765 of 2016. Therefore, it is a fit case, the respondent can reconsider the candidature of the appellant and take a decision on merits and in accordance with law. In the event of the respondents finding that the appellant does not suffer disqualification in terms of the guidelines issued, then the appellant's case shall be considered for appointment, subject to availability of vacancy. The above directions shall be complied with within twelve weeks from the date of receipt of a copy of this order.

7. The Writ Appeal stands allowed on the above terms. No costs.

Sd/-

Assistant Registrar(CS-II)

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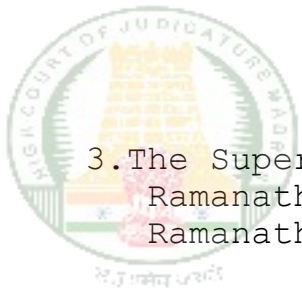
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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant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

To

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3.The Superintendent of Police,
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