



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.01.2021**

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MRS. JUSTICE S.ANANTHI

W.A. (MD)No.13 of 2018

1.The State of Tamilnadu
represented by its
Director General of Police
Beach Road,
Chennai.

2.Uniform Service Recruitment Board,
Represented by its Chairman
Kamarajar Salai
Chennai.

:Appellants/Respondents

Vs.

K.Vilvalingam

: Respondent/Petitioner

PRAYER: Appeal filed under Clause 15 of the Letters Patent against the order of this Court in W.P. (MD) No.6014/2012 dated 16.04.2013.

Prayer in WP(MD). 6014/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF CERTIORARIFIED MANDAMUS, to call for the records pertaining to the Impugned Order in Rc.No.48048/Rect. I(2)/2009, dated 06-10-2009 on the file of the Respondent No.1 and quash the same as illegal and consequently direct the Respondents to appoint the Petitioner in the post of Gr.II, Police Constable for the year 2007-2008 or in the following recruitment year without adhering to age.

For Appellants: Mr.K.P.Krishnadoss
Special Government Pleader

For Respondents: Mr.S.Rajasekar for
Mr.T.Lajapathi Roy

JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

This writ appeal has been preferred by the appellants aggrieved over the order of the learned single Judge, by which, the impugned order cancelling the admission order on the ground that he was involved in a criminal case and he has not mentioned about the same by suppressing it, the learned single Judge allowed the writ



petition, inter alia, holding that the offence said to have been involved was too trivial and he was acquitted by the competent Court. Challenging the same, the present appeal has been filed.

2. The Tamil Nadu Uniformed Services Recruitment Board, namely, the second appellant conducted selection for the post of Grade II Police Constable for the year 2007-08. The respondent/writ petitioner was provisionally selected. He also went through the medical examination, having found fit enough to get the appointment. However, during police verification, it was found that the respondent was involved in Crime No.51/2005 for the offences punishable under Sections 188, 149, 279 and 294(b) IPC, 71(A) MCP Act 4/2, 177 and 184 of the Motor Vehicles Act. Accordingly, a charge sheet was filed on 30.11.2005, in which, the respondent was arrayed as Accused No.38. He attended the Court on 22.04.2009. He was acquitted honourably in CrI.R.C.No.337/2011 dated 08.06.2011. Thus, placing reliance upon the Rules 14(b) of Special Rules for Tamil Nadu Special Police Subordinate Service, as amended in G.O.Ms.No.101 dated 30.01.2003, he cannot be selected.

3. The learned Special Government Pleader for the appellants submitted that the fact that the respondent was involved in a criminal case is not in dispute. The appointment was not made in tune with Rule 14(b) of the said Rules, which has been upheld by this Court. A mere acquittal per se would not be the factor facilitating the respondent to get the appointment. He has also not informed the appellants about the pendency of the acquittal.

4. The learned counsel for the respondent submitted that in view of the decision rendered in ***Avtar Singh v. Union of India and others [(2016) 8 SCC 471]*** particularly, Paragraph Nos.38.4 and 38.4.1, the order of the learned single Judge requires to be confirmed. There is no suppression involved and the offence itself was trivial. In any case, he has been acquitted honourably subsequent to the admission order dated 13.09.2006.

5. We do not find any error in the order of the learned single Judge warranting interference. The allegation against the respondent is that he along with scores of persons attended Thevar Jayanthi function, though there was a prohibition in force. Admittedly, the name of the respondent was not mentioned in the FIR. The records would show that he was served with the copies only after the admission made. He attended the Court only on 22.04.2009. He was acquitted on 08.06.2011 honourably. These factors have also been mentioned in the counter affidavit filed by the appellants themselves before the learned single Judge.

6. From the above, there is nothing to substantiate the statement made in the impugned order, which the appellants seek to sustain that the respondent was aware of the pendency of the case.



In any case, the alleged involvement was very trivial. When the respondent was honourably acquitted, there cannot be any reliance upon the FIR, which also did not indicate his name. The charge sheet was filed on 30.11.2005 and the result of the selection was published on 11.03.2003 itself and the copy of the charge sheet along with the documents was served upon the respondent is thereafter. In the judgment referred supra, the Hon'ble Apex Court was pleased to hold that even in a case of suppression or false information of involvement in a criminal case, where, the acquittal or conviction have already been recorded before filing the application, the denial for employment is not automatic, especially, the offence alleged is very trivial in nature and the incumbent would be unfit to hold the post.

7. In the case on hand, the respondent has been acquitted honourably and therefore, no conviction against him. As stated, there is no material to hold that he has suppressed the pendency of the criminal case at the earliest point of time, as his name was not in the FIR. Thus, looking from any perspective, the order of the single Judge requires to be confirmed.

8. Accordingly, the appeal stands dismissed. Inasmuch as the respondent has already suffered substantial number of years during the pendency of the proceedings, the appellants are directed to give effect to the order of the learned single Judge within a period of twelve weeks from the date of receipt of a copy of this judgment. However, we will make it clear that our order cannot be construed to mean that the respondent is not required to comply with the other requirements for the post before getting appointed, which might include physical training. No costs.

Sd/-

Assistant Registrar (P & A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RR

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-605[F] dated 08/01/2021)

+1 CC to SGP (SR-685[F] dated 08/01/2021)

Order made in
W.A. (MD)No.13 of 2018

07.01.2021