



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.21599 of 2021

and WMP(MD)Nos.18156 and 18157 of 2021

WEB COPY

M.Sakthivel

... Petitioner

versus

1. The Director General of Police,
Mylapore,
Chennai - 600 004.

2. Tamil Nadu Uniformed Service
Recruitment Board,
Rep. by its Member Secretary,
Egmore,
Chennai - 600 008.

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

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records on the file of the third respondent in connection with the impugned order of rejection passed by him vide his proceedings in C.No.A2/33691/2019, dated 08.10.2021 and quash the same as illegal and arbitrary and consequently, direct the respondents to appoint him in the post of Grade-II Police Constable based on the Provisional Selection list published by the second respondent in the light of the order passed in the case of Avtar Singh vs. Union of India and others reported in 2016 (8) SCC 471 or in the post of Fireman by extending the benefit of the order passed by this Court in W.P.(MD)No.12895 of 2018 dated 27.07.2018 within the time limit stipulated by this Court.

For Petitioner	:	Mr.G.Thalaimutharasu
For Respondents	:	Mr.Veera Kathiravan, Additional Advocate General assisted by Mr.S.Shaji Bino, Special Government Pleader

ORDER

This writ petition is filed as against the order of rejection passed by the third respondent, vide his proceedings dated 08.10.2021, in and by which, the third respondent rejected the candidature of the petitioner on the ground that he was involved in



a criminal case in Cr.No.152 of 2014 for the offence punishable under Sections 147, 294(b) and 323 IPC.

2. The petitioner, who is hailing from a poor family, has completed B.A. Degree in the year 2016 and enrolled his educational qualification in the District Employment Office, Tiruchirappalli District. While so, the second respondent issued a Notification to fill up 8858 posts including Grade II Police Constable (Men, Women & Transgender), Grade II Jail Warden (Men & Women) and Fireman (Men) for the year 2019. Pursuant to the said Notification, the petitioner applied for the same through online on 15.03.2019. The petitioner was called for written examination and he had participated in the written examination and secured 51 marks out of 100 marks. Subsequently, the petitioner was called for certificate verification and physical test to be held on 09.11.2019. The petitioner participated in the certificate verification and successfully completed the physical tests and he was provisionally selected for the post of Grade II Police Constable in armed reserve under the sports quota. While so, the third respondent, vide his proceedings dated 10.07.2020, rejected the candidature of the petitioner on the ground that he was involved in a criminal case in Cr.No.152 of 2014 for the offence punishable under Sections 147, 294(b) and 323 IPC. Challenging the same, the writ petition is filed.

3. The learned counsel appearing for the petitioner submits that though the criminal case was registered in the year 2014, the petitioner was neither arrested nor issued with a charge memo and he was not aware of the criminal case, which was registered and pending as against him. He further submits that since the petitioner was not aware of the criminal case, he has not mentioned about the criminal case at the time of submitting the application. He further submits that the criminal case itself was dropped in the year 2018. Therefore, the impugned proceedings passed by the third respondent is unsustainable in law.

4. The learned Additional Advocate General appearing for the respondents submits that though the criminal case registered against the petitioner was closed in the year 2018, the petitioner ought to have mentioned the same in the application and also during the certificate verification. In this case, the petitioner has mentioned in the application that no case is pending against him, which amounts to suppression of fact. Therefore, the third respondent, vide his proceedings dated 08.10.2021, rejected the candidature of the petitioner, which does not warrant any interference.

5. In support of his submission, the learned Additional Advocate General has also relied upon the decision of the Hon'ble Apex Court in ***Avtar Singh vs. Union of India and others***, reported in **2016 (8) SCC 471**. The relevant portion is extracted hereunder:

<https://hcservices.ecourts.gov.in/hcservices/>



"38.7. In a case of deliberate suppression of fact with respect to multiple pending cases such false information by itself will assume significance and an employer may pass appropriate order cancelling candidature or terminating services as appointment of a person against whom multiple criminal cases were pending may not be proper.

38.8. If criminal case was pending but not known to the candidate at the time of filing the form, still it may have adverse impact and the appointing authority would take decision after considering the seriousness of the crime."

6. This Court paid its anxious consideration to the rival submissions and also perused the materials placed on record.

7. No doubt, a criminal case has been registered as against the petitioner in Cr.No.152 of 2014. According to the learned counsel for the petitioner, the petitioner was not aware of the criminal case registered against him, he has not obtained bail or anticipatory bail in Cr.No.152 of 2014, no charge sheet has been laid against him and the same was closed as mistake of fact, without his knowledge and therefore, he was not aware of the criminal case registered against him. The offences in Cr.No.152 of 2014 are also trivial in nature. Since the petitioner was not aware of the criminal case, he has not mentioned about the criminal case at the time of submitting the application. The respondents have not collected any material that the petitioner was aware of the criminal case registered and pending against him. Therefore, this Court is satisfied with the grounds raised by the learned counsel that there is no suppression of any fact by the petitioner in this case.

8. In view of the above, the writ petition is allowed. The impugned proceedings dated 08.10.2021 passed by the third respondent is set aside and the matter is remitted back to the respondents to consider the candidature of the petitioner afresh and pass appropriate orders on merits and in accordance with law, as expeditiously as possible. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

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Mylapore,
Chennai - 600 004.

2.The Member Secretary,
Tamil Nadu Uniformed Service Recruitment Board,
Egmore,
Chennai - 600 008.

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

+1 CC to M/s.G.THALAIMUTHARASU, Advocate (SR-39911[F]
dated 22/12/2021)

W.P (MD) No.21599 of 2021
20.12.2021

NSN (CO)

GC (21.02.2022) 4P 5C