



W.P.No.3907 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2022

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.3907 of 2022
and
W.M.P.No.4053 of 2022

G.Surender

... Petitioner

Vs.

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

2.The Superintendent of Police,
Namakkal District,
Namakkal.

... Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records in connection with the impugned order passed by the 2nd respondent in Na.Ka.No.A2/15200/2020 dated 01.02.2022 and quash the same and further direct the respondents to appoint the petitioner as Grade-II police constable within a reasonable time with all attendant benefits.

For Petitioner : Mr.L.P.Shanmugasundaram



W.P.No.3907 of 2017

For Respondents : Mr.P.Kumaresan
Additional Advocate General
Assisted by
Mr.L.S.M.Hasan Fizal,
Additional Government Pleader

ORDER

The only issue that arises for consideration in this Writ Petition is whether the petitioner can be deprived of being selected to the post of Grade-II Police Constable by the respondents on the ground that he did not disclose in his application form submitted pursuant to the recruitment notification that he was involved in a criminal case.

2. Admittedly, in the instant case, the petitioner has applied for the post of Grade-II Police Constable, pursuant to the recruitment notification issued by the respondents. He has also successfully completed the written examination and he has been qualified to attend the counselling. His Certificates have also been verified by the respondents. However, under the impugned order, his selection has been withheld on the ground that he was involved in a criminal case and therefore, he is not eligible to get selected to the post of Grade-II Police Constable.



3. Admittedly, the offences for which the petitioner was criminally charged in Crime No.719 of 2016 are under Sections 147, 294(b), 323, 324, 506 Part - I of I.P.C. The bone of contention of the respondents is that eventhough in the application form, a specific column was mentioned that any aspirant will have to disclose as to whether any criminal case has been filed against the said aspirant or not, the petitioner has failed to disclose the same in his application form and instead he has disclosed as 'NO to the question *whether any criminal case have been filed against you*'.

4. It is not in dispute that the Criminal offences for which the petitioner has been charged under the aforementioned Crime Number are bailable offences and are trivial in nature. It is also not in dispute that as on the date of submission of the petitioner's application i.e., on 14.10.2020, seeking for appointment as Grade - II Police Constable pursuant to the recruitment notification, the Criminal case which was earlier pending against him, which is the subject matter of the Crime No.719 of 2016 for the offences under Sections 147, 294(b), 323, 324, 506 Part - I of I.P.C. has ended in acquittal by the Judgment of the Judicial Magistrate, Paramathi, Namakkal District in C.C.No.27 of 2020. Admittedly, no appeal has also



been filed by the State as against the said Judgment, which is also confirmed by the learned Additional Advocate General appearing for the respondents.

5. This Court had an occasion to deal with a similar matter in ***W.P.No.13755 of 2020*** in the case of ***S.Dinesh Vs. The Director General of Police and Others***. In the said case also, the aspirant seeking employment in public service was deprived of being appointed, only on the ground that the petitioner therein was earlier involved in a criminal case, involving the very same Sections for which the present petitioner has been charged. In that case also, the petitioner had not disclosed in his application form about the pendency of criminal case against him. In that decision also Rule-13 of the Tamil Nadu Police Subordinate Service Rules was applied to reject the petitioner's selection. While considering the same, this Court has observed in paragraph No.12 of the said order that being a trivial offence and that too when the petitioner has been acquitted, Rule -13 of the Tamil Nadu Police Subordinate Service Rules will have to be interpreted by this Court favouring the petitioner who seeks employment in public service. This Court has also observed in the said order that it is also possible in many



cases that frivolous complaints may be filed and the respondents cannot blindly apply Rule-13 of the Tamil Nadu Police Subordinate Service Rules without any independent assessment with regard to the circumstances, which lead to the lodging of such complaint. It was also observed that if that is allowed to happen, innocents, who apply for getting appointments in public service, will also be affected and that is not the intention of Rule-13 of the Tamil Nadu Police Subordinate Service Rules which has been framed only to weed out the real criminals.

6. In the case on hand, admittedly, as on the date of submission of the application i.e., on 14.10.2020, the criminal case which was pending against the petitioner has also ended in acquittal. The criminal offences charged against the petitioner are admittedly trivial offences. The incident which lead to the lodging of an F.I.R. against the petitioner arose out of a quarrel in a playground. All the Sections under which the petitioner was charged under I.P.C. are trivial offences. Having been acquitted, even prior to the submission of the application by the petitioner seeking for employment as a Grade-II Police Constable, the petitioner should not be deprived of being appointed as a Grade - II Police Constable that too when the offences are



trivial in nature. Excepting for the reason that the petitioner did not disclose in his application form, seeking for employment as Grade-II Police Constable, pursuant to the recruitment notification, that he was involved in a criminal case, admittedly, there are no other reasons for depriving the petitioner from getting appointed to the post of Grade-II Police Constable. This Court after giving due consideration to the aforementioned factors is of the considered view that the respondents ought have applied Rule-13 of the Tamil Nadu Police Subordinate Service Rules in a manner favouring the petitioner in view of the fact that the petitioner was acquitted and the offences charged against him are all trivial in nature.

7. Heard Mr.L.P.Shanmugasundaram, learned counsel for the petitioner and Mr.P.Kumaresan, learned Additional Advocate General assisted by Mr.L.S.M.Hasan Fizal, learned Additional Government Pleader for the respondents.

8. Learned counsel for the petitioner, on instructions, would submit that the petitioner undertakes that he shall not claim any seniority benefits on par with his batchmates in the near future.



WEB COPY



W.P.No.3907 of 2022

9. For the foregoing reasons, the impugned order dated 01.02.2022 is hereby quashed and the Writ Petition is allowed. The respondents are directed to issue appointment order to the petitioner for the Post of Grade-II Police Constable, on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order. It is also made clear that the petitioner shall not claim any seniority benefits on par with his batchmates.

10. With the aforementioned directions, this Writ Petition is disposed of. No Costs. Consequently, the connected Writ Miscellaneous Petition is closed.

02.12.2022

Index : Yes/No
Speaking Order : Yes / No
ab

To
1.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai - 600 004.

2.The Superintendent of Police,
Namakkal District,
Namakkal.

7/8



WEB COPY



W.P.No.3907 of 2022

ABDUL QUDDHOSE. J.,

ab

W.P.No.3907 of 2022

**02.12.2022
(1/2)**