

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2022

CORAM

The Hon'ble Mr. Justice PARESH UPADHYAY  
and  
The Hon'ble Mr. Justice A.D.JAGADISH CHANDIRA

W.A.Nos.1040 and 1055 of 2020  
&  
C.M.P.Nos.12895, 12949 and 12951 of 2020

1. The Chairman,  
Tamil Nadu Uniformed Services  
Recruitment Board,  
Pantheon Road, Egmore, Chennai - 8.
2. The Director General of Police,  
Dr. Radhakrishnan Salai,  
Mylapore, Chennai - 4.
3. The Superintendent of Police,  
Vellore District, Vellore.

.. Appellants in both W.As

Vs

R.Thendral .. Respondent in W.A.No.1040 of 2022

R.Vittal .. Respondent in W.A.No.1055 of 2022

Appeals preferred under Clause 15 of Letters Patent against the order dated 10.04.2019 made in W.P.Nos.32817 and 32818 of 2017.

Prayer in WP.Nos.32817 and 32818 of 2017:

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the 3<sup>rd</sup> respondent in connection with the impugned order passed by him in Na.Ka.No.A2 (3)/3000/2017 dated 01.11.2017 quash the same and direct the respondents to appoint the petitioners as Grade II Police Constable and send them for Institutional training and grant them all consequential service and monetary benefits.

For Appellants : Mr.P.Kumaresan,  
Addl. Advocate General  
assisted by  
Ms.P.Raja Rajeswari,  
Government Advocate  
in both the appeals

For Respondent : Mr.K.Ravi Anantha Padmanabhan  
in both the appeals

COMMON JUDGMENT  
(Delivered by PARESH UPADHYAY, J.)

Challenge in these two appeals is made to the common order dated 10.04.2019 recorded on W.P.Nos.32817 and 32818 of 2017. These appeals are by the State authorities (respondents in writ petitions).

2. Mr.P.Kumaresan, learned Additional Advocate General has submitted that, non-disclosure of criminal case by the candidates, while securing public employment, that too in Police Department is serious aspect and therefore denial of appointment by the State to them ought not to have been interfered with by learned single Judge. It is submitted that, the exercise of discretion by learned single Judge, in the facts like this, is erroneous and therefore these appeals be entertained.

3. On the other hand, Mr.K.Ravi Anantha Padmanabhan, learned advocate for the respondents - writ petitioners has submitted that, even if the case of the State Authorities is accepted on its face value, the incident pertains to playing cricket where scuffle took place as to whether there was any run out or not, which was given colour of crime having been committed, which is rightly interfered with by learned single Judge. It is submitted that, no interference be made by this Court and these appeals be dismissed.

4. Having heard the learned advocates for the respective parties and having considered the material on record, this Court finds that, the case pertains to denial of appointment by the State Authorities to the writ petitioners, who on their merits had secured their position. The denial is solely on the ground that, there was concealment of some facts. Learned single Judge has elaborately examined the facts of the case and has recorded satisfaction in the following terms:-

"20. The petitioners are young, aged 26 and 24, respectively, and have been found fit in all categories of tests. They have passed written examinations, oral interview, medical test, physical efficiency examination and the only reason why their appointments were held back was because of alleged non-disclosure of the criminal case, which itself had ended in acquittal. Moreover, two learned Single Judges of this Court have, vide orders dated 22.03.2018 and 19.12.2018 in Criminal Original Petition Nos.8860 of 2018 and 8759 of 2018, respectively, confirmed the judgements of the trial judges in favour of the petitioners.

21. Then again, the charges laid against the petitioners are also relevant. That the complainant turned hostile may thus not be very relevant in the holistic facts and circumstances of these cases and the acquittals in the present circumstances can, in the light of settled law, only be said to be honourable and not otherwise. As the Division Bench of this Court states, the phrase 'benefit of doubt' is used to connote a wide range of circumstances and thus while dealing with a matter wherein the conclusion turns on whether the accused has been acquitted honourably or by giving him the benefit of doubt, the Court will apply its mind independently to the matter.

22. I will thus advert to the merits of the charges levelled initially against the petitioners to come to an independent conclusion in this regard. The counter does not dispute the nature of charges laid against the petitioners, which is that the petitioners and their friends were playing cricket and a dispute arose with regard to whether one of the players was run out or not. This led to exchange of arguments and the petitioners are said to have hit the other player with a cricket bat. It was this episode that led to the registration of the criminal case. This incident has not been denied by the respondents in counter. On an appreciation of the incident as well as the trajectory of the criminal proceedings, I am left with no doubt that the incident in question started as a spat between friends, escalated into a altercation but came

to be resolved in an amicable manner later. The entirety of the counter proceeds on the fact that there was suppression of the aforesaid criminal case in the application filed by the petitioners, which should not be condoned by the Court. In the facts and circumstances, as noticed and narrated above, I am of the view that the petitioners cannot be said to have suppressed relevant information.

x                      x                      x

25. The impugned orders lack perspective and are incorrect, both in law as well as on the facts and circumstances of the case. This Court believes that, going forward, Mr.Thendral and Mr.Vittal, the two petitioners, will display the necessary maturity, decorum and sense of responsibility called for to discharge functions as part of the Police force properly and appropriately."

(emphasis supplied)

5. The young boys playing cricket, meeting with such incident, ought not to have been given colour of criminality. In any case, denial of public employment was unjustified and discretion exercised by learned single Judge, in the facts of this case can not be said to be an error much less any error apparent on face of record which may call for any interference in exercise of powers under Clause 15 of Letters Patent.

6. For the above reasons, these writ appeals are dismissed. No costs. Connected miscellaneous petitions would not survive.

Sd/-  
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman,  
Tamil Nadu Uniformed Services  
Recruitment Board,  
Pantheon Road, Egmore, Chennai - 8.

2. The Director General of Police,  
Dr. Radhakrishnan Salai,  
Mylapore, Chennai - 4.
3. The Superintendent of Police,  
Vellore District, Vellore.

+1cc to the Government Pleader, S.R.No.40734

+2ccs to M/s.K.Ravi Anantha Padmanaban, Advocate, S.R.No.40045

W.A.Nos.1040 and 1055 of 2020

PL(CO)  
UMA(13/07/2022)