



WEB COPY

W.P.No. 4566 of 2016

Cont P. No. 2586 of 2016



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No. 4566 of 2016

and

Cont P. No. 2586 of 2016

and

W.M.P. 3933 of 2016

E. Subedar Khan

... Petitioner in
W.P.No. 4566 of 2016 &
Cont P. No. 2586 of 2016

Vs.

1. Deputy Secretary,
Tamil Nadu Public Service Commission,
Chennai – 600003.

2. Inspector General of Registration,
Registration Department,
Chennai – 600 028.

... Respondents 1 & 2 in
W.P.No. 4566 of 2016 &
Cont P. No. 2586 of 2016

Prayer in W.P.No. 4566 of 2016 : Writ Petition filed Under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the first respondent in Memo No. 6207/OTD-B2/2010 dated 23.11.2015 and the order passed by the second respondent in his proceedings No. 10201/K1/2015 dated 27.11.2015 and quash the same, and direct the respondents to confer all the consequential benefits to the petitioner.



Prayer in Cont P. No. 2586 of 2016: Petition filed under Section 11 of Contempt of Courts Act, punish the respondents for wilful disobedience of the order passed in M.P.No. 3933 of 2016 in W.P.No. 4566 of 2016 dated 08.02.2016.

For Petitioner	: Mr. P. Ganesan for M/S. C.S. Associates
For Respondents	: Mr. G. Hema for TNPSC for R1 Mr. E. Sundaram Government Advocate for R2

COMMON ORDER

The order passed by the Tamil Nadu Public Service Commission, canceling the selection of the writ petitioner to the post of Assistant, is under challenge in the present writ petition.

2. The petitioner served as a soldier in Indian Army, wherein he was promoted up to the post of Havildhar. The petitioner was voluntarily retired from service on 31.10.1997 and accordingly relieved from Indian Army. He had submitted an application for selection to the post of Group II services through the Tamil Nadu Public Service Commission. The petitioner was selected under the Ex Servicemen quota and appointed as Assistant and



WEB COPY

posted in Registration Department. While so, the first respondent/Tamil Nadu Public Service Commission issued a show cause notice on 15.04.2015, calling for an explanation from the petitioner as to why his selection should not be cancelled on the ground that he had suppressed the fact regarding the pendency of a criminal case against him on the file of the Judicial Magistrate, Perambalur. The petitioner submitted his explanation. The pendency of the criminal case was also not in dispute. While so, the Tamil Nadu Public Service Commission verified the facts and accordingly arrived at a conclusion that the petitioner had suppressed the fact regarding the pendency of the criminal case at the time of selection and accordingly the selection was cancelled as per the rules applicable.

3. The learned counsel for the petitioner states that it was a family dispute and the petitioner's brother in the year 2014, filed a CrI.O.P No. 29985 of 2014 and this Court passed an order that the remedy for the petitioner therein i.e. the brother of the writ petitioner is to be worked out before the Civil Court. It is further contended that the dispute between the family was regarding the partition of properties and therefore it is no way connected with the criminal offences.



WEB COPY



4. Though the brother of the writ petitioner filed a Crl.O.P. before this High Court, the fact remains that an FIR was registered against the writ petitioner and the criminal case was pending. The case was registered under Sections 468, 471, 406 and 420 IPC and trial was conducted by the Judicial Magistrate, Perambalur and a judgment was delivered on 21.06.2018 and the petitioner was acquitted on benefit of doubt. Thus, the fact remains that a criminal case was registered against the writ petitioner and he was acquitted subsequently in the year 2018.

5. The learned counsel appearing on behalf of the Tamil Nadu Public Service Commission made a submission that suppression of material facts is a disqualification as per the Tamil Nadu Public Service Commission Rules. A candidate is required to furnish correct details and non-disclosure or suppression are considered as disqualification and in the present case, the petitioner suppressed the fact regarding the registration of a criminal case which was pending at the time of selection. Since the petitioner suppressed the material fact, the competent authority issued a show cause notice and after affording an opportunity to the writ petitioner and after verifying the fact regarding the pendency of criminal case, issued an order cancelling the selection and thus there is no infirmity.



6. The petitioner has not disputed the fact that the criminal case was pending during the relevant point of time. While so, this Court do not find infirmity in respect of the order impugned passed by the Tamil Nadu Public Service Commission which is in consonance with the Rules in force. Candidate who suppressed the material facts in the process of selection is not entitled for relief and the selection was rightly cancelled and thus the writ petition is devoid of merits and stands dismissed.

7. In view of the disposal of the writ petition, the contempt petition stands closed. Consequently, connected miscellaneous petition is closed.

16.11.2022

mrn

Index : Yes / No

Speaking order / Non-Speaking order

To

1. The Deputy Secretary,
Tamil Nadu Public Service Commission,
Chennai – 600003.

2. The Inspector General of Registration,
Registration Department,
Chennai – 600 028.



WEB COPY



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S.M.SUBRAMANIAM, J.

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