



WEB COPY



WP No.1897 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18-11-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

**WP No.1897 of 2018
And
WMP No.3560 of 2018**

V.Devaraj

..

Petitioner

VS.

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

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

..

Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order of the second respondent dated 05.01.2018 in C.No.M1/756/60706/2017 and quash the same and consequently direct the respondents to appoint the petitioner as a Grade-II Police Constable for



WP No.1897 of 2018

the year 2017 based on the judgment of the Hon'ble Supreme Court in the case of Avtar Singh vs. Union of India, Reported in (2016) 8 SCC 471.[Prayer amended as per order of Court dated 18.11.2022 made in WMP No.3559 of 2018 in WP No.1897 of 2018]

For Petitioner : Mr.K.Goviganesan

For Respondents : Mr.S.Rajesh,
Government Advocate.

O R D E R

The relief sought for in the present writ petition is to call for the records relating to the order of the second respondent dated 05.01.2018 in C.No.M1/756/60706/2017 and quash the same and consequently direct the respondents to appoint the petitioner as a Grade-II Police Constable for the year 2017 based on the judgment of the Hon'ble Supreme Court in the case of **Avtar Singh vs. Union of India [(2016) 8 SCC 471]**.

2. The petitioner participated in the process of selection for appointment to the post of Grade II Police Constable in Tamil Nadu Police Services and he was successful in the written examination and participated in the physical verification test and endurance test.



WP No.1897 of 2018

WEB COPY

3. The case of the writ petitioner was not considered for selection on account of the fact that his character and antecedents were not satisfactory. The Competent Authorities, while conducting verification found that a criminal case was registered against the writ petitioner in CC No.19 of 2017 for the offence under Sections 147, 294(b) and 323 IPC. The petitioner arrayed as Accused No.3.

4. The learned counsel for the petitioner made a submission that the criminal case was ended with an order of acquittal. Therefore, the case of the writ petitioner is to be considered.

5. The case of the writ petitioner was rejected firstly on the ground of suppression of material facts. In this regard, the respondents have stated that the petitioner has answered that he had not involved in any other criminal case. In this regard, paragraph-4 of the counter-affidavit reads as under:-

“4. It is submitted that the averments made



WEB COPY



WP No.1897 of 2018

by the petitioner in para 5 of the petition is totally false. The petitioner was given a printed questionnaires and in Serial No.15 of the questionnaires, he has not answered as 'Yes' as stated by the petitioner. He was implicated in a criminal case in CC No.19 of 2017 for the offences under Sections 147, 294(b) and 323 IPC on the file of the District Munsif cum Judicial Magistrate Court at Uthiramerur. In the said questionnaires, in Serial No.15 for the question. "Have you ever been concerned in any criminal case as defendant" ? The petitioner has falsely answered as 'No'. The said petitioner having a criminal case on his credit instead of saying as 'Yes' for the said Serial No.15 of the questionnaire, wantonly with the criminal intention to get the selection in above recruitment has given a false statement as 'No' to the said Serial No.15 of the questionnaire and that itself proved that he has not approached the said Recruitment Board with clean hands."

6. Mere acquittal in criminal case would not be a ground to



WP No.1897 of 2018

claim selection as a matter of right. Even in case of acquittal, the Competent Authorities are empowered to conduct verification of character and antecedents, eligibility and suitability being vital criterias for selection to Uniformed Services. Verification of character and antecedents are to be done by the Competent Authorities. Thus acquittal in criminal case is not a ground to claim selection as a matter of right.

7. The Supreme Court has held that the assessment of eligibility and suitability are the prerogative of the Selection Committee and the High Court cannot interfere with such assessments by exercising the power of Judicial Review under Article 226 of the Constitution of India.

8. When the petitioner has suppressed the material facts, he is not eligible for selection. Further a criminal case was registered against him, which was ended with an order of acquittal and the Authorities Competent found that he is not fit for selection to the post of Grade II Police Constable in the Tamil Nadu Police Services. Thus the principles laid down by the Supreme Court in the case of **Avtar Singh vs. Union of India [(2016) 8**



WP No.1897 of 2018

SCC 471] cannot be applied to the facts of the present case.

WEB COPY

9. In view of the facts and circumstances, this Court do not find any infirmity in respect of the rejection order impugned passed by the respondents.

10. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently the connected miscellaneous petition is also dismissed.

18-11-2022

Index : Yes/No.

Internet : Yes/No.

Speaking Order/Non-Speaking Order.

Svn



WP No.1897 of 2018

To

WEB COPY

1. The Director General of Police,
Mylapore,
Chennai – 600 004.
2. The District Superintendent of Police,
Kancheepuram District,
Kancheepuram.



WEB COPY



WP No.1897 of 2018

S.M.SUBRAMANIAM, J.

Svn

WP 1897 of 2018

18-11-2022