



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.1276 of 2022

and

W.M.P.(MD) No.1121 of 2022

WEB COPY

A.G.Nibesh

... Petitioner

vs.

1.The Government of Tamil Nadu  
rep.by its Secretary  
Home Department  
Secretariat  
Chennai

2.The Chairman  
Tamil Nadu Uniformed Services  
Recruitment Board  
Chennai-8

3.The Superintendent of Police  
Kanniyakumari District  
At Nagercoil

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records on the file of the 3<sup>rd</sup> respondent pertaining to its order bearing Na.Ka.No.A4/9603/2021 dated 04.01.2022 and to quash the same and consequently direct the respondents to appoint the petitioner as Grade II Police Constable or Grade II Jail Warder or Firemen based upon the petitioner's rank.

For Petitioner : Mr.Sivakumar.S.

For Respondents : Mr.Veera Kathiravan

Additional Advocate General  
assisted by Mr.A.K.Manikkam  
Special Government Pleader

### O R D E R

The order of rejection, dated 04.01.2022, passed by the third respondent, rejecting the candidature of the petitioner for recruitment to the post of Grade-II Police Constable, is under challenge in this writ petition.



2. The petitioner participated in the process of selection for recruitment to the post of Grade-II Police Constable and he was successful in the written examination and allowed to participate in the physical verification test and endurance test.

3. The learned counsel for the petitioner mainly contended that the criminal case was registered when the petitioner was minor and further, the case was closed on the ground of limitation. That apart, the petitioner has also informed about the registration of the criminal case both in the application form and at the time of verification. Therefore, the petitioner is not guilty of suppression of material facts.

4. The learned counsel for the petitioner further contended that as per Proviso 3(xiv) of Juvenile Justice (Care and Protection of Children) Act, 2015, all past records of any child under the juvenile justice system should be erased except in special circumstances and therefore, the petitioner's candidature is to be considered based on the said proviso.

5. When the petitioner is not guilty of suppression of material facts and the criminal case was registered when he was juvenile, the Authorities must apply their mind with reference to the other factors for the purpose of forming an opinion. In this regard, it is relevant to consider the observations made by the Honourable Supreme Court in the case of **Umesh Chandra Yadav vs. the Inspector General and Security Commissioner, R.P.F., Northern Railway, New Delhi and others**, reported in **2022 LiveLaw (SC) 300**, wherein it has been held as follows:

"18. The Division Bench, in the impugned judgment, has proceeded mechanically, without taking note of the fact that a juvenile could not have been entangled in a criminal complaint instituted against him in October 1997 and this fact remained unnoticed by the Division Bench that he was a juvenile when the order of discharge was passed on 15th December, 2001 and almost a decade thereafter, the process of selection came to be initiated by the respondents pursuant to an advertisement dated 23rd February 2011, the seriatim of facts cumulatively indicate that the nature of information which was not disclosed by the appellant, in any manner, could be considered to be a suppression of material information not being bona fide disclosed in clause 12 of attestation form filled by him. In this regard, the finding which has been recorded by the Division Bench in holding that there was a suppression of material information is



19. At the first blush, we were not inclined to grant the appellant consequential benefits as he had not worked after his services came to be terminated on account of cancellation of appointment dated 19th February 2015, but in the present facts and circumstances, when the appellant was never at fault and no one has afforded him a reasonable opportunity to justify and, at the same time, the authorities have also failed to consider that the appellant was a juvenile on the date when the complaint was made and the date when he was discharged by the learned trial Judge by an order dated 15<sup>th</sup> December, 2001, these peculiar facts were not noticed by the authority while exercising its judicious discretion as to whether the so called alleged suppression at all disentitle the appellant from continuation of service."

6. In view of the facts and circumstances, the impugned order, dated 04.01.2022, passed by the third respondent, is quashed. The matter is remanded back to the third respondent for fresh consideration. The third respondent is directed to consider all the facts and circumstances, including the fact that the petitioner was juvenile at the time of registration of the criminal case and also the nature of the offences and other facts, and pass fresh orders on merits and in accordance with law, by assigning reasons, within a period of eight weeks from the date of receipt of a copy of this order.

7. Accordingly, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To:

1.The Secretary,  
Home Department,  
Government of Tamil Nadu,  
Secretariat, Chennai.

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



2.The Chairman,  
Tamil Nadu Uniformed Services  
Recruitment Board,  
Chennai-8.

3.The Superintendent of Police,  
Kanniyakumari District,  
At Nagercoil.

+2 CC to M/s.S.SIVAKUMAR, Advocate ( SR-14187[F] dated 24/03/2022 )

+1 CC to M/s.SPL GP ( SR-14868[F] dated 28/03/2022 )

**W.P.(MD) No.1276 of 2022**

**and**

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**24.03.2022**

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