



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.1445 of 2022 and
W.M.P.(MD)Nos.1255 & 1256 of 2022

N.Mareeswaran

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Principal Secretary,
Home Department, Secretariat,
Chennai – 600 009.
 2. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore, Chennai – 8.
 3. The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore, Chennai – 8.
 4. The Director General of Police,
O/o.The Director General of Police,
Tamil Nadu,
Chennai – 600 004.
 5. The Deputy Inspector General of Police,
O/o.The Deputy Inspector General of Police,
Tirunelveli Region,
Tirunelveli.
- ... Respondents



Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 6th respondent in his proceedings Na.Ka.No.A4/31580/2020 dated 31.12.2021 and quash the same as illegal and consequentially to direct the respondents to consider the petitioner for appointment of the post of Grade-II Police Constable in pursuant to the notification No.1/2020 dated 17.09.2020 within the period that may be stipulated by this Court.

For Petitioner : Mr.H.Mohammed Imran,
for M/s.Ajmal Associates.

For Respondents: Mr.Veera Kathiravan,
Additional Advocate General,
assisted by,
Mr.A.K.Manikkam,
Special Government Pleader.

* * *

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Additional Advocate General assisted by the learned Special Government Pleader appearing for the respondents.



2. The writ petitioner applied in response to the recruitment notification issued by the Tamil Nadu Uniformed Services Recruitment Board on 17.09.2020 calling for applications for the post of Police Constable Grade-II, Jail Warden Grade-II and Fireman. The petitioner was successful at all stages. However, by the impugned memorandum dated 31.12.2021, he was informed that he cannot be issued with the appointment order. The ground set out in the impugned order is that the petitioner was involved in Crime No.47 of 2020 registered on the file of Valliyur police station for the offences under Sections 294(b), 352 and 506(ii) of IPC and that the said case got quashed only based on the compromise arrived at between the parties. Challenging the said disqualification order, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He submitted that the case registered against the writ petitioner was petty in nature and that since it has been quashed, the same ought not to be put against him. He would also point out that the writ petitioner



made a frank disclosure about the registration of the case against him. The petitioner's counsel relied heavily on the decision reported in **(2018) 1 SCC 308 (Vikram Singh V. Commissioner of Police)** and the order dated **27.06.2022** passed by the Hon'ble Division Bench in **W.A.Nos.1040 and 1055 of 2020 (The Chairman, Tamil Nadu Uniformed Services Recruitment Board, Chennai V. R.Thendral)**. His core contention is that the appointing authority is obliged to look into the suitability of the writ petitioner in the light of the relevant facts. Merely because the petitioner was shown as accused in a criminal case that by itself cannot lead to his disqualification. He called upon this Court to quash the impugned order and grant relief as prayed for.

4. I am not persuaded by the submissions advanced by the learned counsel appearing for the petitioner. As rightly pointed out by the learned Additional Advocate General, law has marched ahead. The learned Additional Advocate General rightly relied on Rule 13 of the Special Rules for Tamil Nadu Police Subordinate Service. The said rule is as follows:-



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“ Qualifications – No person shall be eligible for appointment to the service by direct recruitment unless he satisfies the appointing authority.

(a) that he is of sound health, active habits and free from any bodily defect or infirmity unfitting him for such service;

(b) that his character and antecedents are such as to qualify him for such service;

(c) that such person does not have more than one wife living; or if such person is a woman, that she is not married to any person who has a wife living and

(d) that he does not have knock knees or bow legs or flat feet.

(e) that he has not involved in any criminal case before Police verification:

Explanation (1) – A person who is acquitted or discharged on the benefit of doubt or dues to the fact that the complainant turned hostile, shall be treated as a person involved in a



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criminal case.

Explanation (2) – A person involved in a criminal case at the time of Police verification and the case yet to be disposed of and subsequently ended in honourable acquittal or treated as mistake of fact shall be treated as not involved in a criminal case and he can claim right for appointment only by participating in the next recruitment. ”

5. In the case on hand, the petitioner did not secure honourable acquittal. The case against him got quashed in CrI.O.P.(MD)No.5117 of 2021 vide order dated 04.08.2021, on the strength of compromise arrived at with the defacto complainant. In other words, the case ended in favour of the petitioner only after the selection process got over. The aforesaid rule was upheld by the Hon'ble Full Bench in the decision reported in **2008 (2) CTC 97 (Manikandan V. Chairman, Tamil Nadu Uniformed Services Recruitment Board)**. The Hon'ble Full Bench answered the reference in paragraph No.40 in the following terms:-



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“ Therefore, in conclusion, we hold that the amended Rule 14(b) of the Special Rules for Tamil Nadu Police Subordinate Services is not ultra vires or unconstitutional. We also hold that the non selection of the writ petitioners or the rejection of their candidatures, by the respondents, either on the basis of their involvement in criminal case or on the basis of the suppression of their involvement, is perfectly valid and justified.

In answer to the reference made to the Full Bench, we hold-

(a) that by virtue of Explanation 1 to Clause (iv) of Rule 14 (b) of the Tamilnadu Special Police Subordinate Service Rules, a person acquitted on benefit of doubt or discharged in a criminal case, can still be considered as disqualified for selection to the police service of the State and that the same cannot be termed as illegal or unjustified; and

(b) That the failure of a person to disclose



in the application form, either his involvement in a criminal case or the pendency of a criminal case against him, would entitle the appointing authority to reject his application on the ground of concealment of a material fact, irrespective of the ultimate outcome of the criminal case.

In view of the above, all the writ petitions fail and they are dismissed. No costs. ”

6. The matter was once again reconsidered by the Hon'ble Larger Bench in the decision reported in **2014 (2) CTC 337 (J. Alex Ponseelan V. State)** and the rule was once again sustained.

7. The learned Additional Advocate General relied on the latest decision of the Hon'ble Apex Court reported in **2022 LiveLaw (SC) 798 (SATISH CHANDRA YADAV V. UNION OF INDIA & ORS)**. In the aforesaid decision, the Hon'ble Apex Court had held that in public service matters,



the State employer has an element of latitude or choice on who should enter its service.

8. It is open to the employer to prescribe appropriate norms as regards eligibility and suitability. The State of Tamil Nadu had introduced threshold norms that a person who seeking employment he could not be involved in criminal case before approval. The expression “ involvement ” has been defined in the Explanations 1 and 2. To avoid disqualification, the candidate must have secured honourable acquittal or the case must have been treated as mistake of fact. Unfortunately the petitioner had compromised the matter with the defacto complainant. Therefore, the case of the petitioner will fall within the Explanation 1.

9. The learned counsel appearing for the petitioner endeavoured to convince the Court that mere involvement is not decisive of the issue and that the overall circumstances must be taken into account. I am not persuaded. The statutory rule erects a Himalayan barrier which the petitioner cannot overcome. The impugned order is sustained. This writ petition



stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

01.11.2022

Index : Yes / No

Internet : Yes/ No

PMU

To:

1. The Principal Secretary,
Home Department, Secretariat, Chennai – 600 009.
2. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore, Chennai – 8.
3. The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore, Chennai – 8.
4. The Director General of Police,
O/o.The Director General of Police, Tamil Nadu,
Chennai – 600 004.
5. The Deputy Inspector General of Police,
O/o.The Deputy Inspector General of Police,
Tirunelveli Region, Tirunelveli.



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G.R.SWAMINATHAN,J.

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