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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 24.02.2022**

**CORAM**

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

**W.P.(MD) No.3467 of 2022**
**and**
**W.M.P.(MD) Nos.3047 & 3048 of 2022**

K.Arunachalam ... Petitioner

-vs-

1. The Secretary,
   The Tamil Nadu Uniform Service Recruitment Board,
   No.807, P.T Lee Chenkalvaraya Nayakkar Maligai,
   Anna Salai, Chennai.

2. The Director General of Police,
   O/o. The Director General of Police,
   No.1, Dr.Radhakrishnan Salai,
   Mylapore, Chennai.

3. The Superintendent of Police,
   Tenkasi District, Tenkasi. ... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the orders passed in Na.Ka.No.A4/27928/2021, dated 09.01.2022 on the file of the 3rd respondent herein and to quash the same as illegal and further direct the respondents to appoint the petitioner as Secondary Grade Police Constable in the respondent department under the Common Recruitment for the post of Grade-II Police Constable, Grade-II Jail Warden and Fireman-2022, under Advertisement No.1 of 2020, dated 17.09.2020.

For Petitioner : Mr.K.R.Laxman
For Respondents : Mr.Veerakathiravan
Additional Advocate General
assisted by Mr.A.K.Manikkam,
Special Government Pleader

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**O R D E R**

Mere selection would not confer any right on the candidates. Appointments to the public services are to be made strictly in

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accordance with the rules in force. When the selection itself is not a right, the process of selection undertaken can be questioned only on limited grounds. If the process of selection is based on certain corrupt practices or there are acceptable allegations of *mala fide* intention on the part of the Selecting Authorities, the Courts would interfere with the process of selection in respect of the assessment of merit of the candidates, who all are participating in the process of selection.

2.In the context of the above general principle, the facts in the present case are to be looked into.

3.The petitioner, pursuant to the Recruitment Notification for selection to the post of Grade-II Constable in Tamil Nadu Police Service, participated in the process of selection. The petitioner was successful in the written examination. He participated in the physical verification test and endurance test and during the final process of verification of antecedents, the authorities found that a criminal case was registered against the writ petitioner and the criminal case was quashed by the High Court in Crl.O.P(MD) No.12965 of 2020.

4.A criminal case would have been quashed by the High Court on certain grounds with reference to the allegations or otherwise. However, process of selection cannot be compared with the criminal charges quashed by the High Court. The verification of antecedents, suitability and eligibility are the independent aspects, which all are to be done by the Selecting Authorities and therefore, mere acquittal is not a ground to seek selection or appointment by way of a right.

5.The learned Additional Advocate General appearing on behalf of the respondents contended that the petitioner has suppressed the fact regarding the criminal case in his application itself. Beyond the suppression of fact, the charges were quashed by the High Court and therefore, the authorities are bound to verify the antecedents of the person and if the antecedents or suitability are not satisfied, then the decision of the Selecting Authority became final.

6.However, there is no material on record to establish that there was a suppression of fact, as the petitioner has not furnished the copy of the application. However, the learned Additional Advocate General made a submission in this regard, even in case where there is no suppression, the decision regarding the assessment of merit by the Selecting Authorities became final. The interference by the High Court by exercising judicial review under Article 226 in respect of such decision of the Selection Committee is certainly restricted to the extent, if such selections are tainted with *mala fide* or corrupt practices, but not otherwise.

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7.High Court cannot interfere with the process of selection in a routine manner. High Court cannot enter into the arena of assessment of merits of the respective candidates who all are participating in the selection process. It is the expert Selection Committee which is competent to assess the merits, suitability and eligibility of the candidates and therefore, by filing a writ petition, the petitioner cannot seek a relief of selection to the post of Grade-II Police Constable.

8.Grade-II Police Constable, which is the uniformed services, requires a through verification of antecedents, as these uniformed personnel are handling arms and ammunitions. Therefore, a person of integrity must be selected for such services, as it involves certain important public duties, that is, maintenance of law and order in the society.

9.The order impugned dated 09.01.2022 reveals that the criminal case registered against the writ petitioner was subsequently quashed in Crl.O.P.(MD) No.12965 of 2020. In spite of the fact that the criminal case was quashed, the Selection Committee found that the petitioner was not suitable for appointment to the post of Grade-II Police Constable. This being the decision of the Selection Committee, scope of judicial review in such a decision, regarding the assessment of suitability and eligibility, cannot be interfered with by the High Courts.

10.The Hon'ble Supreme Court of India in the case of ***Union Territory, Chandigarh vs. Pradeep Kumar [(2018) 1 SCC 797],*** held that "it is thus well settled that acquittal in a criminal case does not automatically entitle him from appointment to the post. Still it is open to the employer to consider the antecedents and examine whether he is suitable for appointment to the post".

11.From the observations of the Honb'le Supreme Court in ***Commissioner of Police, New Delhi and Another vs. Mehar Singh [(2013) 7 SCC 685],*** it is clear that "a candidate to be recruited to the police service must be of impeccable character and integrity. A person having criminal antecedents will not fit in this category. Even in case of acquittal or discharge, it cannot be presumed that he was honourably acquitted/completely exonerated. The decision of the Screening Committee must be taken as final unless it is shown to be *mala fide.* The Screening Committee also must be alive to the importance of the trust reposed in it and must examine the candidate with utmost character". In the said case itself, the Hon'ble Supreme Court has elaborately considered the scope of acquittal.

12.The Full Bench of the Madhya Pradesh High Court formulated important question of law in respect of selection in the case of ***Ashutosh Pawar vs. High Court of M.P. & another*** reported in ***2018 (1)***

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***CTC 353*** and settled the principles and the relevant paragraphs are extracted hereunder:-

*"1. Whether in all cases, where an FIR lodged against a person for minor offences has been quashed on the basis of a compromise arrived at between the parties or a person has been acquitted on account of a compromise between the parties, the character of the person applying for appointment thereafter, has to be treated as Good and such a person cannot be held ineligible for appointment under the Rules of 1994?*

*2. Whether the High Court in exercise of its powers under Article 226 of the Constitution of India, can step into the shoes of the Appointing Authority and determine as to whether the person concerned is fit for appointment or whether the High Court on finding that the Authority concerned has wrongly exercised its discretion in holding the candidate to be ineligible should, after quashing the order, remit the matter back to the authority concerned for reconsideration or for fresh consideration as to the eligibility of the person ?*

*3. Whether the High Court while allowing such a petition in exercise of its powers under Article 226 of the Constitution of India can issue a further direction to the authority to appoint the person concerned on the post from the date his batchmates were appointed and to grant him back dated seniority and all other benefits or whether the High Court should simply remit the matter back to the authority for taking a decision in this regard ?*

*4. Whether the high standards of adjudging the good character of a candidate for appointment as a Judicial Officer, which has been adopted and followed by the State under the Rules of 1994 till the W.P. No.5865/2016 decision in the case of Arvind Gurjar (supra) were and are right and proper or whether in view of the decision in the case of Arvind Gurjar (supra), the same should be considered to be relaxed to the extent that in all cases the character of a person should be treated to be good where he has been acquitted for minor offences on the basis of a compromise?*

*5. Whether the decision in the case of Arvind Gurjar (supra) lays down the correct law ?*

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*6. Any other question that may arise for adjudication or decision in the dispute involved in the present petition and which the Larger Bench thinks appropriate to decide?"*

13.In view of the above principles, the decision taken by the Selection Committee become final and the petitioner has not established any acceptable ground for the purpose of interfering with the impugned order passed by the 3rd respondent. The verification of eligibility and suitability is the subjective satisfaction of the competent authorities and the scope of exercise of power of judicial review under Article 226 in a writ proceedings is undoubtedly limited to the extent if it is established that the selection process is tainted with corrupt practices or *mala fide*, but not otherwise.

14.With the above observations, this Writ Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar(CS)

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To

1. The Secretary,
   The Tamil Nadu Uniform Service Recruitment Board,
   No.807, P.T Lee Chenkalvaraya Nayakkar Maligai,
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2. The Director General of Police,
   O/o. the Director General of Police,
   No.1, Dr.Radhakrishnan Salai,
   Mylapore, Chennai.

3. The Superintendent of Police,
   Tenkasi District, Tenkasi.

+1 CC to M/s.K.R.LAXMAN, Advocate ( SR-8628[F] dated 25/02/2022 )
+1 CC to M/s.SPL GP ( SR-8720[F] dated 25/02/2022 )

W.P.(MD) No.3467 of 2022
24.02.2022

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