



W.P.(MD)No.3741 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.3741 of 2022

and

W.M.P(MD)No.3267 of 2022

D.Jeba Paul (Reg No.0401401)

... Petitioner

Vs

1.XXXX

*(R.1 is deleted vide order of this Court
dated 11.11.2022 in W.M.P(MD)No.
12397 of 2022 in W.P(MD)No.3741 of 2022)*

2.The Director,

Tamil Nadu Uniformed Services Recruitment Board,
No.71, Adithanar Road,
Pudupet,
Komeleeswaranpet,
Egmore,
Chennai – 2.

3.The Superintendent of Police,

Nagercoil,
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records made in the impugned order in Na.Ka.A4/9603/2021 dated 04.01.2022 passed



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by the third respondent herein and quash the same as illegal and consequently direct the respondents to appoint the petitioner as Grade-II Police Constable for the year 2020, considering the representation of the petitioner dated 31.01.2022.

For Petitioner : Mr.L.Victoria Gowri

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 for the respondents.

2. The petitioner was working in Central Industrial Security Force (CISF) as constable. After completing 20 years, he got discharged on voluntary retirement. He applied for Grade-II Police Constable post held for the recruitment in the year 2020. The petitioner was successful in clearing the tests. However, by the impugned order dated 04.01.2022 he was informed that he stood disqualified for being appointed. The reason set out in the impugned order is that the petitioner had not disclosed his involvement in criminal case.



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The learned Additional Advocate General called upon this Court to sustain the impugned order and decline to interfere.

3. After considering the rival contentions and the materials on record, I am satisfied that the relief has to be granted to the writ petitioner. It is true that the writ petitioner was shown as A.1 in Crime No.90 of 2013 registered on 04.05.2013 on the file of Nithiravilai Police Station, Kanyakumari District. A reading of the FIR indicates that it was only a petty fight between cousins. Be that as it may, the investigation officer himself closed the case as mistake of fact within five days. The Jurisdictional Magistrate of course, accepted the final report several years later. There is nothing on record to show that the writ petitioner was even aware of the registration of the case. The petitioner has been in para military duty since 19.06.2000 till 31.03.2021.

4. The learned counsel appearing for the petitioner would even say that he was not been aware of the registering of the FIR and he was on duty during the relevant time. The primary ground on which I am granting relief is that even on the date on which the application was submitted by the petitioner, the case had been closed as a mistake of fact. Since the case was closed as a mistake of fact the disqualification set out in the statutory rule is not attracted. In this view of the matter, the impugned order is set aside. This writ petition is



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allowed. The third respondent is directed to issue order appointing the writ petitioner within a period of six weeks from the date of receipt of a copy of this order. This writ petition is allowed on these terms. Consequently, connected miscellaneous petition is closed. No costs.

11.11.2022

Index : Yes / No
Internet : Yes/ No
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To

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No.71, Adithanar Road,
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G.R.SWAMINATHAN, J.

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