



W.P(MD)No.5730 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.5730 of 2022

Kalidass

... Petitioner

Vs.

1.The Director General of Police,
Office of Directorate of Police,
Chennai.

2.The Superintendent of Police,
Office of Superintendent of Police,
Pudukkottai, Pudukkottai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining the impugned order in Na.Ka.No.A3/33792/2002, dated 02.02.2022 and quash the same and consequently, direct the respondents to appoint the petitioner in Registration No.2408570 as Grade II Police Constable for the requirement of respondents for the year 2020.

For Petitioner : Mr.M.Ramu

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



W.P(MD)No.5730 of 2022

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. TNUSRB issued notification on 17.09.2020 calling for applications from eligible candidates for the post of Police Constable Grade-II. The petitioner cleared all the tests successfully. By the impugned order, he was informed that he stood disqualified and that he cannot be issued with an order of appointment. Questioning the impugned memorandum dated 02.02.2022 issued by the second respondent, the present writ petition has been filed.

3. The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned memorandum and allow the writ petition and grant relief as prayed for.

4. I am not persuaded by the contentions advanced by the learned counsel appearing for the petitioner.



W.P(MD)No.5730 of 2022

5. The learned Additional Advocate General pointed out that the petitioner was shown as A1 in C.C.No.71 of 2019 on the file of the Judicial Magistrate, Aranthangi. It is true that the said case ended in acquittal on 11.01.2021. The petitioner's counsel claimed that acquittal was a meritorious acquittal and not granted on the ground that witnesses turned hostile. It is true that the defacto complainant Aakash was not specifically declared hostile by the public prosecutor. Copy of his testimony was made available. It is true that in the chief examination, the defacto complainant had deposed against the petitioner herein. But in the cross examination, he turned turtle. He went to the extent of even stating that there was a number of persons in the crowd and he implicated the petitioner on suspicion. He also stated in the cross examination that he was not aware of the contents of the complaint.

6. Though the defacto complainant was not specifically declared hostile, the fact remains that his deposition undermined the case of the prosecution. It is quite possible that the whole thing was a stage-managed affair. I come to the conclusion that the petitioner did not obtain an honorable acquittal but only because of the complainant turning hostile. Rule 14(b) of Tamil Nadu Special Police Subordinate Service Rules is as follows:-

Rule 14(b): No person shall be eligible for appointment to the service by direct recruitment unless he satisfies the appointing authority that



W.P(MD)No.5730 of 2022

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

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

(iii) that such a person does not have more than one wife living.

(iv) that he has not involved in any criminal case before police verification.

Explanation (1): A person who is acquitted or discharged on benefits of doubt or due to the fact that the complainant turned hostile shall be treated as person involved in a 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.

7. The case of the petitioner falls within the purview of Explanation I. It is enough if the complainant had turned hostile. It is not necessary that he should have been formally declared as a hostile witness. That apart, the learned Additional Advocate General would point out that the petitioner did not disclose the factum of his involvement, when he filled up the application form. Only during the verification stage, the involvement of the petitioner in the criminal cases came to be disclosed. There is yet another case registered against the petitioner. It appears that he was found guilty of having breached Covid norms and he had paid a fine of Rs.600/- in S.T.C.No.45 of 2021 on the file of the Judicial Magistrate, Aranthangi on 08.02.2021.



W.P(MD)No.5730 of 2022

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8. In these circumstances, though the petitioner appears to be a meritorious sports person, this Court cannot come to his rescue. The impugned memorandum is sustained. The Writ Petition is dismissed. No costs.

10.11.2022

Index : Yes / No
Internet : Yes/ No
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To

- 1.The Director General of Police,
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Office of Superintendent of Police,
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W.P(MD)No.5730 of 2022

G.R.SWAMINATHAN, J.

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W.P(MD)No.5730 of 2022

10.11.2022