



W.P.(MD)No.6872 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.(MD)No.6872 of 2020
W.M.P(MD).No.6281 of 2020**

J.Udayakumar

... Petitioner

Vs.

1.The Chairman,
Tamil Nadu Uniform Service Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road,
Egmore,
Chennai-600 002.

2.The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned order in Na.Ka.No.A4/16449/2019 dated 24.03.2020 issued by the second respondent, quash the same as null and void and consequently directing the respondents to appoint the petitioner as he is qualified, as per the norms called for by the first respondent.



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For Petitioner : Mr.F.X.Eugene
For Respondents : Mr.Veera Kathiravan
Additional Advocate General
assisted by
Mr.S.P.Maharajan
Special Government Pleader

ORDER

This Writ Petition has been filed to call for the records relating to the impugned order in Na.Ka.No.A4/16449/2019 dated 24.03.2020 issued by the second respondent, quash the same as null and void and consequently, direct the respondents to appoint the petitioner as he is qualified, as per the norms called for by the first respondent.

2. The case of the petitioner is that he had applied for the post of Grade-II Police Constable (Men, Women and Transgender), Grade II Jail Warder (Men and women) and Fireman pursuant to the advertisement issued by the first respondent for the year 2019. The petitioner has participated in the physical and medical tests and in that, he was successfully passed. While so, those persons, who have participated along with the petitioner, were directed to join duty immediately in COVID-19 rescue duty. Hence, the



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petitioner has approached the second respondent. However, the second respondent has issued the impugned order stating that “the persons who are acquitted under benefit of doubt or hostility of complaint will be treated as involved in criminal case and he will not be considered for appointment as per Rule 14(b) of TNSPSS Rules (or) Rule 13 of TNPSS Rules”. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that admittedly, an F.I.R was registered against the petitioner and the charges were framed on the file of the Judicial Magistrate No.3, Tirunelveli, as C.C.No.10 of 2017. Since the prosecution has not proved their case, the learned Judicial Magistrate No.3, Tirunelveli dismissed the case and the petitioner was acquitted from the criminal case. Hence, he has not mentioned the criminal case in the application.

4. The learned Additional Advocate General appearing for the respondents would submit that the issue arising in the present writ petition is no longer *res-judicata*. With regard to the suppression of criminal case in



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the application, the similar issue came up for consideration before the Hon'ble Apex Court of India. The Hon'ble Apex Court in the case of *Avatar Singh vs. Union of India and others* reported in *(2016) 8 SCC 471* has categorically held that “non-disclosure or submitting false information would assume significance and that by itself may be ground for employer to cancel candidature or to terminate services”. In the present case, the petitioner has suppressed the criminal case in the declaration form itself. Further, the persons who are acquitted under benefit of doubt or hostility of complaint will be treated as involved in criminal case and they will not be considered for appointment as per Rule 14(b) of TNSPSS Rules (or) Rule 13 of TNPSS Rules. Hence, the candidature of the petitioner was rejected.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Advocate General appearing for the respondents.

6. The issue involved in the present writ petition is no longer *res-judicata* which has already been decided by the Hon'ble Apex Court in *Avtar Singh* case (supra) and the said decision was followed by the Hon'ble



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Division Bench of this Court in W.A(MD).No.636 of 2022. In the present case, admittedly the petitioner has suppressed the criminal case in the application and he was involved in a criminal case. Though he was acquitted from the criminal case, in view of the decision rendered by the Hon'ble Supreme Court of India and the judgment of the Hon'ble Division Bench of this Court, this Court has no reason to interfere with the impugned order of the second respondent.

7. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

20.12.2022

Index : Yes / No

Speaking Order : Yes / No

ssb

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WEB COPY 2. The Superintendent of Police,
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M.DHANDAPANI,J.

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