



W.P(MD)No.15041 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.11.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.15041 of 2022

and

W.M.P.(MD)No.10760 of 2022

M.John Rumando

... Petitioner

Vs.

1.The Director General of Police,
Office of Director General of Police,
Santhome, Chennai 600 005.

2.The Superintendent of Police,
Office of the Superintendent of Police,
Trichy, Trichy 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 to the impugned order passed by the 2nd respondent in Na.Ka.No.A2/24400-6/2020 dated 06.01.2022 and quash the same and consequently, direct the respondents to appoint the petitioner in Registration No. 2408272 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.15041 of 2022

ORDER

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

2. The petitioner applied in response to the recruitment notification issued by TNUSRB in the year 2020 for the post of Police Constable Grade-II. The petitioner was successful in all the tests. However, by the impugned memorandum dated 06.01.2022, he was informed that he stood disqualified for being appointed. Challenging the same, this 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 and called upon this Court to quash the impugned order and grant relief as prayed for.

4. Per contra, the learned Additional Advocate General submitted that the impugned order does not warrant any interference and relied on the recent case laws. He strongly emphasized that the petitioner is guilty of suppression and therefore, this Court ought not to show indulgence.



W.P(MD)No.15041 of 2022

5. I carefully considered the rival contentions and went through the materials on record.

6. There are two grounds on which the petitioner has been disqualified. The first ground is that he was involved in Crime No.114 of 2020 registered on the file of the Manikandam Police Station for the offence under Section 4(1)(a) TNP Act r/w Section 409 of IPC. The second ground is that the petitioner did not disclose his involvement while submitting his application.

7. The relevant statutory rule is Rule 14(b) of Tamil Nadu Special Police Subordinate Service Rules. It reads 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

(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



W.P(MD)No.15041 of 2022

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.

8. It is true that a person involved in any criminal case before the police verification would be automatically disqualified. If the case had ended in honourable acquittal or treated as 'Mistake of Fact', the candidate shall be treated as not involved in criminal case. It is seen that the criminal case registered against the petitioner was quashed by me vide order dated 31.01.2022 in CrI.O.P.(MD)No.20545 of 2021. The writ petitioner was possessing a certain quantity of liquor. I had given a categorical finding that the possession was well within the prescribed limit and that no case was made out. In that view of the matter, FIR registered against the petitioner was quashed and the criminal original petition was allowed. Such an outcome will have to be considered on par with treatment of the criminal case as 'Mistake of fact'.

9. I therefore hold that the writ petitioner did not suffer from any disqualification. Of-course, the petitioner failed to disclose the same when he filled up the application form. At the time of verification, he had informed the authorities about his involvement. Therefore, the petitioner cannot be said to



W.P(MD)No.15041 of 2022

be guilty of suppression. In this view of the matter, the order impugned in the writ petition is set aside. The matter is remitted to the file of the second respondent to pass appropriate orders on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order.

10. The Writ Petition is allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

01.11.2022

Index : Yes / No
Internet : Yes/ No
rmi

To

- 1.The Director General of Police,
Office of Director General of Police,
Santhome, Chennai 600 005.
- 2.The Superintendent of Police,
Office of the Superintendent of Police,
Trichy, Trichy District.

G.R.SWAMINATHAN, J.



WEB COPY



W.P(MD)No.15041 of 2022

rmi

W.P(MD)No.15041 of 2022

01.11.2022