



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.01.2022

CORAM:

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P. (MD)No.3456 of 2018

and

W.M.P. (MD)No.3604 of 2018

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P.Suresh Kumar

...Petitioner

/Vs./

1.The Deputy Commissioner of Police (Law and Order),
Tirunelveli City,
Tirunelveli District.

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

3.The Inspector of Police,
Nanguneri Police Station,
Tirunelveli District.

...Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 2nd respondent in NA.KA.No.A5/65514/2017 dated 01.01.2018 and to appoint the petitioner as Youth Brigade.

For Petitioner : Mr.K.Sudalaiyandi

For Respondents : Mr.D.Sadiq Raja
Additional Government Pleader

ORDER

Heard Mr.K.Sudalaiyandi, learned counsel for the petitioner and Mr.D.Sadiq Raja, learned Additional Government Pleader for the respondents.

2.The petitioner had applied for recruitment to the Tamil Nadu Police Youth Brigade in 2013. The application filed by him had omitted disclosure in regard to First Information Report bearing No.125 of 2011 in relation to alleged crime under Sections 147,148, 294 (b), 323 and 307 of IPC.

3.The application was followed by a call-letter on 16.01.2014 and in the course of the verification conducted, the first respondent detected the pendency of the aforesaid FIR. Moreover, Rule 3 of the Tamil Nadu Special Police Youth Brigade Rules, 2013 (in short 'Rules') that sets out Qualifications for appointment to the Youth Brigade was also invoked. The Rule, as relevant is extracted below:

<https://hcservices.ecourts.gov.in/hcservices/>



"3. Qualification for appointment to the Youth Brigade.- No person shall be eligible for appointment as a member of the Youth Brigade, unless he -

- (a) has passed the 10th standard examination;
- (b) is of good character and is physically fit;
- (c) is a resident of Tamil Nadu; and
- (d) has completed 18 years of age and has not completed 25 years of age as on 1st January of the year in which the selection for appointment is made:

Provided that for the appointment of a candidate who is a member of a Scheduled Caste / Scheduled Tribe, the upper age limit shall be 30 years:

Provided also that for the appointment of a candidate who is a member of a Backward Class or Most Backward Class or Denotified Communities, the upper age limit shall be 27 years.

[Provided also that only male candidates will be eligible for appointment as a member of the Youth Brigade]"

4. Thus, both on the grounds of non-disclosure of the FIR as well since the conduct of the petitioner was, according to the respondent, not as expected or as desirable of a member of the Youth Brigade, the application of the petitioner came to be rejected on 17.02.2014. This order has attained finality and has not been challenged by the petitioner.

5. According to the petitioner, the factum of the FIR though well within his knowledge was not disclosed, since there had been no charge sheet that had been filed at the relevant point in time. Before me, a different tune is sung, learned counsel stating that the petitioner had been unaware of the very FIR. It is unambiguously clear to me that the non-disclosure of the FIR was a conscious and calculated act on the part of the petitioner.

6. Be that as it may, it was incumbent upon the petitioner to have made a full and true disclosure of the charge, in the absence of which the rejection of his application is fully supported by the ratio of the Judgment of the Hon'ble Supreme Court in this regard in the case of *Avtar Singh vs. Union of India* [2016 (8) SCC 471].

7. In the meantime, the criminal case took its course, leading in the acquittal of the petitioner by the Sub Court, Vallioor, by judgement dated 03.04.2017. This triggered the filing of a representation by the petitioner before the first respondent on 19.10.2017, seeking appointment to the Youth Brigade yet again.



8.The representation has come to be rejected vide order dated 01.01.2018, which is the subject matter of challenge in this writ petition. The impugned order rejects the representation, and rightly so, noting, in addition to the reasons set out in order dated 17.02.2014, that the acquittal of the petitioner is not an honourable one, but one based on benefit of doubt.

9.I find no infirmity whatsoever in the impugned order. The conduct of the petitioner has been found not to be in line with the requirement under Rule 3 of the Rules. That apart, the claim of the petitioner for re-appointment is itself stale and is barred by laches, seeing as order dated 17.02.2014 rejecting the application of the petitioner has been allowed to lie for three long years.

10.The revival of the application cannot be on the strength of a mere representation, and that too, one based upon an acquittal that is itself based on benefit of doubt. This Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

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Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Deputy Commissioner of Police (Law and Order),
Tirunelveli City,
Tirunelveli District.
- 2.The Superintendent of Police,
Tirunelveli District,
Tirunelveli.
- 3.The Inspector of Police,
Nanguneri Police Station,
Tirunelveli District.



4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.SPL.GP (SR-335[F] dated 05/01/2022)

Order made in
W.P. (MD)No.3456 of 2018

Dated:
04.01.2022

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