



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.02.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .No.4641 of 2018

and

W.M.P. (MD) .No.4718 of 2018

P.Prabakaran

... Petitioner

Vs.

1.The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
No.807, P.T.Lee Chengalvaraya Naicker Maligai,
Anna Salai,
Chennai - 600 002.

2.The Director General of Police,
O/o.Director General of Police Head Office,
Chennai - 04.

3.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

... 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 on the file of the second respondent pertaining to its order bearing RC.No.135173/Rect I(2)/2017-13 dated 26.12.2017 and to quash the same and consequently direct the respondents to appoint the petitioner to the post of Police Constable Grade-II within a time frame that may be stipulated by this Court.

For Petitioner	:	Mr.V.Muniasamy
For Respondents	:	Mrs.D.Farjana Ghoushia, Special Government Pleader.

ORDER

The petitioner has challenged the impugned order dated 26.12.2017 and sought a consequential prayer to direct the respondents to appoint the petitioner to the post of Grade-II Police Constable.



2. The facts of the case are that the petitioner being an unemployed youth was aiming to the post of Grade-II Police Constable. The petitioner has registered under the combined recruitment process and his registration number is 2806385. The petitioner was permitted to participate in the physical measurement, in the endurance test, successfully passed the physical fitness and passed in the medical test and was eagerly awaiting for the appointment order.

3. While so, the third respondent vide his proceedings dated 22.01.2013 stated on enquiry it was found that a criminal case was registered against the petitioner in Narikudi Police Station in Crime No.266/2011 for the offences under section 341, 323, 324, 294 (b), 506(ii) of IPC. As per Government Rule No.101, Home (Police.9) Department, dated 30.01.2003 and Rules, for appointment to the post, one should not be involved in any criminal case. After conducting full fledged trial in the criminal case, the petitioner was acquitted from the above charges on benefit of doubt vide order 07.12.2012 by the Judicial Magistrate. Aggrieved over the same, the petitioner preferred CrI.R.C.No.52 of 2013 before this Hon'ble Court and the same was allowed vide order dated 29.01.2013 wherein, the benefit of doubt was converted as Hon'ble Acquittal.

4. In spite of the same, the respondents have not considered the petitioner's candidature, hence he has filed a Writ Petition in W.P.(MD). No. 3056 of 2013, which was heard along with the batch of cases. This Court vide order dated 26.03.2013 has directed the respondents to appoint the petitioner. However, the said appointment is subject to the result of final Judgment which was referred in Larger Bench of the Hon'ble Supreme Court reported in **(2012) 7 MLJ 68 (SC) in the matter of Jainendra Singh Vs. State of U.P.** Aggrieved over by the said order, the respondents had filed Writ Appeal in W.A. (MD). No.627 of 2014 and the same was disposed on 24.07.2017 with a direction to the first respondent to consider the case of the petitioner and take a decision one way or the other and remitted the matter to the Director General of Police for fresh consideration. Based on the said order, the present impugned order has been passed.

5. The respondents have filed a counter stated that police service being "uniform service", the candidate should have upright character and honesty, since the petitioner is not having institutional integrity and honesty the petitioner is not eligible to be appointed in the service. The petitioner is having criminal antecedents and it will erode the department.

6. Heard Mr.V.Muniasamy, learned counsel for the petitioner and Mrs.D.Farzana Ghoushia, learned Special Government Pleader for the respondents.



7. The Special Government Pleader vehemently objected stating that the petitioner while filling the application form for the question "Whether any criminal case is pending against you"? the petitioner has filled as "NO", which is a blanket lie. The Special Government Pleader also points out that since the petitioner has not come out with the clean hands, the petitioner is not entitled to any relief.

8. On perusal of the entire materials on records, it is seen that the respondents have taken into consideration the judgment passed by the Judicial Magistrate, but the respondents failed to take into consideration the order passed in CrI.R.C.No.52 of 2013 of this Hon'ble Court, wherein it has been clearly held by this Court as under:-

"In the result, this finding rendered by the trial Court insofar as the petitioners/A2 that he is acquitted of the charges levelled against him based on 'Benefit of Doubt' is modified to the effect that he shall stand acquitted 'honorably'. Before parting from the case, this Court makes a relevant and significant observation that the petitioner will show his exemplary conduct beyond reproach by turning a new leaf in their future career/endeavours."

9. Since the petitioner was acquitted from the criminal case that too "Hon'ble Acquittal", then the petitioner is entitled to consider for appointment. Taking the age of the petitioner into consideration, this Court directing the respondents to grant an appointment order to the petitioner and the said exercise shall be completed within a period of six (6) weeks from the date of receipt of a copy of this order.

10. Hence the Writ Petition is allowed as stated above. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Nsr

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 Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
No.807, P.T.Lee Chengalvaraya Naicker Maligai,
Anna Salai,
Chennai - 600 002.

2.The Director General of Police,
O/o.Director General of Police Head Office,
Chennai - 04.

3.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

+1 CC to M/s.SPL GP (SR-5358[F] dated 10/02/2022)

+1 CC to M/s.V.MUNIASAMY, Advocate (SR-5657[F] dated 11/02/2022)

W.P. (MD) .No.4641 of 2018
09.02.2022

KM(CO)
KB(24.02.2022) 4P 6C