



W.P(MD)No.22046 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.22046 of 2022

and

W.M.P.(MD)Nos.16200 & 16201 of 2022

A.Sekar

... Petitioner

Vs.

1.The Chairman,
Tamil Nadu Uniform Services Recruitment Board,
No.807, P.D.V Sengalvaraya Naicker Maligai,
Anna Salai,
Chennai-2.

2.The Director General of Police,
Kamarajar Salai,
Kailasapuram,
Mylapore,
Chennai-4.

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

... 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 relating to the impugned order of the 3rd respondent by his proceedings C.No.A4/1001/2018 dated 27.9.2021 and quash the same as illegal.



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For Petitioner : Mr.C.Mayilvahana Rajendran

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

ORDER

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

2. TNUSRB issued recruitment notification calling for applications from the eligible candidates for the post of Police Constable Grade-II in the year 2017. The petitioner was successful in all the tests. However, he was disqualified for being appointed in view of his involvement in Crime No.86 of 2016 registered on the file of the Elamchempur Police Station. The petitioner filed W.P.(MD)No.2749 of 2019 questioning the disqualification. The Writ Petition was dismissed vide order dated 13.03.2019. Aggrieved by the same, the petitioner filed W.A.(MD)534 of 2019. The order of the learned single Judge was set aside on certain terms. The matter was remitted to the file of the competent authority to consider the case afresh. Pursuant to the said direction, the impugned order came to be passed once again reiterating that the writ



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petitioner stood disqualified in view of his involvement in the criminal case.

Challenging the same, this Writ Petition came to be 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 set aside 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. He pointed out that the case registered against the petitioner was quashed based on the compromise with the defacto complainant and the fact that the writ petitioner was not a party to the quash proceedings will not make any difference. According to him, the petitioner's case will fall within the mischief of Explanation I of Rule 14.

5. 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

(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



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(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.

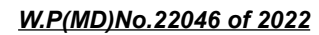
Explanation (1): A person who is acquitted or discharged on benefits of doubt or due to the fact that the complainant turned hostile shall be treated as person involved in a criminal case.

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.

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

7. The petitioner figured as A1 in Crime No.86 of 2016 registered on the file of the Elamchempur Police Station. It is true that more than 18 accused filed CrI.O.P.(MD)No.20765 of 2016. When the matter was taken up for disposal, the learned counsel appearing for the defacto complainant entered appearance and gave his no objection for quashing the proceedings. In view of the same, FIR was quashed vide order dated 26.10.2016. It is true that the petitioner was not a party to CrI.O.P.(MD)No.20765 of 2016 . That is why, the Hon'ble Division Bench allowed the writ appeal in the following terms:-

“6. According to the appellant, because of the order passed in CrI.O.P. (MD)No.20765 of 2016, FIR has been closed and hence, the benefits should be granted to the appellant, who applied for Grade-II Police Constable post. The above issue has not been specifically dealt with by the learned Single Bench. Even in the



9. In these circumstances, the petitioner has been deprived of an opportunity to obtain honourable acquittal. In the alternative, if investigation had been allowed to proceed, it is quite possible that the case itself would have been treated as 'Mistake of Fact'. A person who was an accused in a criminal case is entitled to demonstrate that he is innocent. This outcome can be secured either at the end of investigation or at the end of the criminal case or during criminal case by way of discharge. The petitioner could not take recourse to any of these avenues.



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10. Considering the special facts and circumstance of this case, I direct the Inspector of Police, Elamchempur Police Station, Ramanathapuram District to reopen investigation in Crime No.86 of 2016 and file a report as regards the involvement of the petitioner before the Superintendent of Police, Ramanathapuram District. If the report of the Inspector of Police, Elamchempur Police Station is to the effect that the case should be treated as 'Mistake of Fact', then, the third respondent shall consider the petitioner as not suffering from any disqualification. He shall be considered for appointment subject to availability of vacancies. If the outcome is in favour of the petitioner, the appointment order that may be issued by the third respondent will take effect from the future date. The petitioner's service will be counted from the said date.

11. The Writ Petition is disposed of on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes/ No
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To

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G.R.SWAMINATHAN, J.

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