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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2023

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.2042 of 2023
and WMP Nos.2137 &2138 of 2023

R.Sankar

Petitioner

vs.

- 1.The State of Tamil Nadu,
Rep. by the Secretary to the Government,
Home Department,
Secretariat,
Chennai – 600 009.
- 2.The Director General of Police,
State of Tamil Nadu,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai – 600 004.
- 3.The Deputy Inspector General of Police,
Western Zone,
Coimbatore.
- 4.The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Campus,
Egmore,
Chennai – 600 008.
- 5.The Superintendent of Police,
Erode District,
Erode.

Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings of the 5th respondent in Na.Ka.No.A2/ 05634/ 2021 dated 11.01.2022 and quash the same as illegal, incompetent and ultravires and consequently direct the respondents to appoint the petitioner in the Post of Gr. II Police constable.

For Petitioner : Mr.R.Jayaprakash

For Respondents : Mr.RU.Dinesh Rajkumar
Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned proceedings of the 5th respondent dated 11.01.2022 and for a consequential direction to the respondents to appoint the petitioner in the post of Grade II Police Constable.

2.The case of the petitioner is that the 4th respondent through Notification dated 17.09.2020 called for applications for recruitment to the post of Police Constable Grade-II. The petitioner also applied for the same and participated in the selection process. The petitioner passed the written examination and also qualified in the physical test conducted by the Board.



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Ultimately, at the time of certificate verification, on an enquiry made, it was found that there was a criminal case against the petitioner and the same ultimately, ended in an acquittal in C.C.No.7 of 2019, by an order dated 29.09.2021 passed by the learned Judicial Magistrate, Kodumudi. Based on the same, the 5th respondent issued the impugned order dated 11.01.2022 informing the petitioner that the petitioner was acquitted from the criminal case by giving him the benefit of doubt and under such circumstances, the petitioner cannot be considered for selection to the post of Police Constable Grade II. Aggrieved by the same, the present writ petition has been filed before this Court.

3.Heard Mr.R.Jayaprakash, learned counsel appearing on behalf of the petitioner and Mr.RU.Dinesh Rajkumar, learned Additional Government Pleader appearing on behalf of the respondents.

4.The learned counsel for the petitioner submitted that the criminal case for which the petitioner was charged was trivial in nature and ultimately, the petitioner was acquitted from all charges and hence, the 5th respondent was not right in rejecting the candidature of the petitioner. The

learned counsel in order to substantiate his submissions, brought to the



notice of this Court the order passed in W.P.No.8135 of 2020, dated 04.12.2020, W.P.No.7229 of 2020, dated 16.12.2020, W.P.No.13569 of 2020, dated 16.08.2021, W.P.No.17694 of 2021, dated 24.08.2021 and W.A.No.2367 of 2021, dated 21.09.2022. The learned counsel also drew the attention of this Court to the judgment of the Apex Court in *Avatar Singh vs. Union of India and others* reported in **2016 8 SCC 472**.

5.Per contra, the learned Additional Government Pleader appearing on behalf of the respondents vehemently opposed even for entertaining this writ petition on the ground that the petitioner had suppressed the pending criminal case against him in his application form and hence, none of the orders that were relied upon by the learned counsel for the petitioner will apply to the facts of the present case. The learned counsel submitted that the petitioner had knowledge about the pending criminal case and in spite of the same, he had suppressed and hence, it was moral turpitude on the part of the petitioner. Hence, the learned Additional Government Pleader sought for the dismissal of this writ petition.

6.This Court has carefully considered the submissions made on either side and also the materials available on record.



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7. On carefully going through the orders that were relied upon by the learned counsel for the petitioner, they are cases where either the criminal case had ended in acquittal by the time the application was submitted or the applicant therein was not aware about a pending criminal case. Under such circumstances, this Court took into consideration the fact that there was no willful suppression of fact in the application submitted by the candidate. Accordingly, the parameters laid down by the Apex Court in *Avatar Singh* case referred *supra* was relied upon. In the present case, the petitioner was aware about the pending criminal case and he was undergoing trial and the petitioner had conveniently stated in the application form that there was no criminal case filed or pending against him as on the date of submission of the application form on 10.10.2020. Admittedly, the petitioner was acquitted from the criminal case in C.C.No.7 of 2019 only on 11.01.2022. Hence, the subsequent acquittal of the petitioner from the criminal case, will not come to an aid of the petitioner, since he had suppressed the pendency of a criminal case as on the date when the application was submitted.

8. It will be relevant to take note of Para 38.10 and 38.11 in *Avatar*

Singh case, referred *supra* and for proper appreciation, the same is extracted



hereunder:

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38.10 For determining suppression or false information attestation/verification form has to be specific, not vague. Only such information which was required to be specifically mentioned has to be disclosed. If information not asked for but is relevant comes to knowledge of the employer the same can be considered in an objective manner while addressing the question of fitness. However, in such cases action cannot be taken on basis of suppression or submitting false information as to a fact which was not even asked for.

38.11 Before a person is held guilty of suppressio veri or suggestion falsi, knowledge of the fact must be attributable to him”

9. It is clear from the above that while determining suppression or false information, the same must pertain to the information that is specifically sought for in the application and the same must be within the knowledge of the applicant. In the present case, both the ingredients are satisfied. There was a specific column in the application wherein the petitioner was asked as to whether any criminal case has been filed against him. The petitioner categorically states that there is no criminal case pending against him. Whereas, there was in fact a criminal case that was



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pending in C.C.No.7 of 2019. The same was also within the knowledge of the petitioner and hence, the petitioner must be held guilty of suppressing the material fact. In view of the same, this Court does not find any illegality in the impugned order passed by the 5th respondent and the orders that were relied upon by the learned counsel for the petitioner, will not come to the aid of the petitioner. The suppression of a material fact at the time of submitting the application, particularly in a discipline service, involves moral turpitude and it has to be dealt with stringently. Courts cannot show any leniency for such willful suppression of material fact.

10. There are no merits in this writ petition and accordingly, the same is hereby dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

30.01.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
ssr

To

1. The Secretary to the Government,
Home Department,



Secretariat,
Chennai – 600 009.



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N. ANAND VENKATESH, J.

SSR

- 2.The Director General of Police,
State of Tamil Nadu,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai – 600 004.
- 3.The Deputy Inspector General of Police,
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Coimbatore.
- 4.The Member Secretary,
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