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W.P.No.7009 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2023

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.7009 of 2020
and W.M.P.Nos.8359 & 8361 of 2020

Balamurugan

... Petitioner

Vs.

1.The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Chennai – 600 008.

2.The Director General of Police,
Dr.Radhakrishnan Salai,
Chennai – 600 004.

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

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records of the third respondent order dated 09.03.2020 vide his proceeding in C.No.A4/14450/2019 and to quash the same and also direct the respondent 1



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to 3 to appoint petitioner in the post of Grade-II Police Constable (Tamil Nadu Special Police).

For Petitioner : Mr.D.Velu

For Respondents : Mr.P.Kumaresan,
Additional Advocate General-VII
Assisted by,
M/s.P.Vijaya Devi,
Government Advocate and
J.Daniel,
Government Advocate

ORDER

This writ petition has been filed by the petitioner to call for the records of the third respondent order dated 09.03.2020 vide his proceeding in C.No.A4/14450/2019 and to quash the same and also direct the respondent 1 to 3 to appoint petitioner in the post of Grade-II Police Constable (Tamil Nadu Special Police).

2. The case of the petitioner is that the petitioner viz., Balamurugan belongs to Scheduled Caste Community and completed his B.A., English



Literature. This being so, he has applied for the post of Grade-II Police Constable (TSP) for the year 2019, called for by the first respondent vide notification in advertisement No.1/2019 dated 06.03.2019. Thereafter, the petitioner has passed the written test, physical measurement test and physical efficiency test and provisionally selected for the aforesaid post. During the police verification, he was found to have been involved in a criminal activities and criminal case was also registered against him in Crime No.139 of 2014 under section 294(b), 352, 241 and 506 and Crime No.150/2014 under section 107 Cr.P.C. However, the aforesaid criminal cases were ended in acquittal. This being so, the third respondent in his proceeding C.No.A4/14450/2019 dated 09.03.2020 has rejected the candidature of the petitioner stating that he was not found eligible for the appointment of Grade-II Police Constable (TSP) as the previous character of the petitioner was not found satisfactory. Challenging the said order, the petitioner has come forward with the present writ petition.

3. Learned counsel for the petitioner submitted that writ appeal in W.A.Nos.938 & 939 of 2020 have been filed before the Madurai Bench of



this Court. The Hon'ble Division Bench of this Court after elaborate discussion, by judgment date 05.06.2023 has allowed the writ appeals by giving directions to the authorities concerned.

4. Learned counsel for the petitioner submitted that the directions issued by this Court in the said judgment is squarely applicable to the facts of the case on hand, therefore similar relief may be granted in the present writ petition. For better appreciation, the relevant portion of the judgment is extracted hereunder:

“21.W.A(MD).No.938 of 2020:

(d) it is clear from the records that the petitioner was involved in a criminal case before the date of notification for the recruitment and he had completely suppressed his such involvement. The said involvement was found out only during the police verification at the time of appointment. The candidate has been acquitted on the ground of hostility of witnesses. Therefore, we are of the opinion that the writ Court was not right in allowing the writ petition and granting a positive direction to select and appoint the candidate.

(e) It is for the employer to consider the suitability of the candidate based upon his conduct and antecedents only if the offences are trivial in nature.

(f) The order impugned in the writ petition is set aside



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and the appointing authority is directed to reconsider the same in the light of proposition of law laid down by this Court in Paragraph No.19 of this judgment.

(g) With the above observation, this Writ Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

22.W.A(MD).No.939 of 2020:

(e) We are of the opinion that the candidate has clearly suppressed his involvement in the case despite having knowledge about the same and he has been acquitted only on the ground of hostility of witnesses. Therefore, it would not confer any right upon the candidate to claim appointment as a matter of right. It is for the employer to consider the suitability of the candidate based upon his conduct and antecedents only if the offences are trivial in nature. Therefore, the writ Court was not right in issuing a positive direction to the authorities to select and appoint the candidate.

(f) Accordingly, the order impugned in the writ petition is set aside and this Writ Appeal stands allowed. The appellant authority is directed to reconsider the candidature in the light of paragraph No.19 of this judgment. No costs. Consequently, connected miscellaneous petition is closed.”

5. According to the learned Additional Advocate General appearing for the respondents, the candidate was involved in an offence and a criminal case was also registered against him in Crime No.139 of 2014 under section 294



(b), 352, 241 and 506 and Crime No.150/2014 under section 107 Cr.P.C.

The notification for the recruitment was issued on 06.03.2019. In the application form, his involvement in the criminal case has been completely suppressed. Therefore, he prayed for dismissal of this writ petition.

6. Heard the learned counsel on either side and perused the materials available on record.

7. In the present case on hand, it is pertinent to extract the paragraph 19 of the judgment passed by the Madurai Bench of this Court in a batch of writ appeals in W.A.(MD)Nos.398 of 2020 & etc., batch dated 05.06.2023 and the said paragraph is reads as follows:

“19. In the light of the above said deliberations, the preposition of law could be summarized as follows:

(a).In case of honourable acquittal, discharge, case closed as mistake of fact, quashing of F.I.R/Charge Sheet before the date of police verification, the same should be considered in favour of the candidate in the current selection itself.

(b).Where the candidate has been acquitted on the ground of benefit of doubt or hostility of witnesses (before the date of police verification), that would not confer any right



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upon the candidate to claim appointment as a matter of right. It is for the employer to consider the suitability of the candidate based upon his conduct and antecedents only if the offences are trivial in nature.

(c).Where the criminal case has been quashed (before police verification) on the basis of a compromise and the offence is of trivial in nature, the same can be considered in favour of the candidate in the current selection itself. However, if the offence involved is not of a trivial in nature, the same cannot be considered for appointment.

(d).Where a candidate having knowledge about his involvement in a criminal case had suppressed the same in his application and the said offence is not trivial in nature, he is not entitled to seek any appointment. On the other hand, in cases of trivial offences, without knowledge about his involvement or after having knowledge had suppressed his involvement, the employer in his discretion is entitled to consider the candidature by considering his character and past antecedents.

(e).Where the candidate is involved in petty/trivial cases like family dispute or dispute with neighbors or shouting of slogans or traffic offence where fine was imposed, the same can be considered to be offence of trivial/petty in nature. However, the offence against women, children or under NDPS Act should never be considered to be an offence of trivial in nature.

(f).Where the candidate is involved in criminal offences under Juvenile Justice Act, he/she is to be considered in the light of the Division Bench Judgment of this Court dated 01.03.2023 in Rev.Apln.No.17 of 2023 in W.A.No.2759 of 2018 (The Superintendent of Police, Villupuram District



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(g). Pending the recruitment process, if a candidate is discharged from the criminal case or acquitted in the criminal case, he/she shall be eligible to be considered for the next recruitment process as per Rule 14(b) of the Tamil Nadu State Police Subordinate Service Rules.”

8. In view of the above factual matrix of the case, the impugned order passed by the third respondent vide his proceeding in C.No.A4/14450/2019 dated 09.03.2020 is liable to be quashed and the same is hereby quashed and this matter is remitted back to the third respondent to reconsider the candidature of the petitioner afresh in the light of the law laid down in paragraph No.19 of the aforesaid judgment passed by this Court in a batch of writ appeals in W.A.(MD)Nos.398 of 2020 & etc., batch dated 05.06.2023, within a period of six weeks from the date of receipt of a copy of this order.

9. This writ petition stands allowed with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

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Speaking Order : Yes/No

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J.SATHYA NARAYANA PRASAD,J.

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