



W.P.No.27968 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.27968 of 2017

G.Mahendiran

... Petitioner

Vs.

1. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old COP office Campus,
Pantheon Road,
Egmore,
Chennai 600 008.

2. The Additional Director,
General of Police & Inspector General of Prisons,
Tamil Nadu Prison Department,
Whannels Road, Egmore,

Chennai 600 008.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the order passed by the 2nd respondent in his proceedings made in No.3583/EW-1/2017-21, dated 17.11.2017 and quash the same.



W.P.No.27968 of 2017

WEB COPY

(Prayer amended vide Court order dated 28.09.2018 in W.M.P.No.29219/2018 by SPJ)

For Petitioner : Mr.S.Balaji

For Respondents : Mr.P.Kumaresan
Additional Advocate General
assisted by Mrs. Sowmi Dattan
for R1 and R2

ORDER

This Writ Petition has been filed to quash the order passed by the 2nd respondent dated 17.11.2017.

2.The learned counsel for the petitioner would submit that the petitioner completed B.E. (Electronic and Communication Engineering) in the year 2013. The 1st respondent issued a Notification for the post of Grade II Police Constables and Grade II Jail Warders in the month of January, 2017. Accordingly, the petitioner applied for the post of Grade II Police Constables and Grade II Jail Warders on 18.02.2017. The petitioner has attended written test on 21.05.2017 and after successful completion of



W.P.No.27968 of 2017

written test, the 1st respondent called for physical efficiency test on 31.07.2017. After successful completion of all the tests, the 1st respondent had selected the petitioner for the post of Grade II Jail Warder. The selected candidates list was sent to the Appointing Authority/2nd respondent. The 2nd respondent has issued appointment order to all the selected candidates. Unfortunately, the 2nd respondent did not issue appointment order to the petitioner. Subsequently, the petitioner understands that the 2nd respondent did not issue the order since there is one criminal case is pending in Crime No.407/2012 under Sections 294 (b), 326 and 307 IPC on the file of the Inspector of Police, Thiruvannainallur Police Station, Ulundurepet Taluk Villupuram District. In the said case, the petitioner was acquitted after full fledged trial vide Judgment dated 17.06.2017 in S.C.No.405/2014. Thereafter, the petitioner made a representation to the 2nd respondent on 28.10.2017. Subsequently, the 2nd respondent in his proceedings made in No.3583/EW-1-2017 dated 17.11.2017 rejected the selection of the petitioner on the ground of involvement in criminal case. Hence, this Writ Petition.



W.P.No.27968 of 2017

WEB COPY

3.The learned Additional Advocate General appearing for the respondents would submit that Tamil Nadu Uniformed Services Recruitment Board conducts a common recruitment to the posts of Police Constables in Police Department and Grade II Warders in the Prison Department and Fireman in the Fire & Rescue Services Department. The Petitioner appeared for the examination conducted by the Board on 21.05.2017 for recruitment to the post of Grade II Warders in the Prison Department and his Registration Number is 0425373. The 1st respondent vide his letter No.R2/150/2017, dated 05.09.2017 has communicated the list of 954 male candidates who are provisionally selected by the Board for appointment to the post of Grade II Warders to the 2nd respondent. He would submit that in accordance with the Tamil Nadu Jail Subordinate Service Rules, the Police Verification report was sought for to ascertain the character and antecedents of the Petitioner. The Inspector of Police, Thiruvannainallur Police Station, Villupuram District and Inspector of Police, District Special Branch, Villupuram vide his report dated 29.10.2017 have informed that a criminal



W.P.No.27968 of 2017

case in Crime No.407/2012 was registered against the Petitioner u/s 294(b), 326, 352, 307 of IPC and the petitioner was arrayed as A2 in the said case. He was acquitted from the said case for the reason that the prosecution failed to prove the case beyond reasonable doubt. Since the petitioner was not honourably acquitted and only acquitted under the benefit of doubt, he is being treated as involved in a criminal case as per the Tamil Nadu Jail Subordinate Service Rules and not appointed as Grade II Warder in the Prison Department.

4. Heard the learned counsel appearing on either side and perused the papers.

5. On a perusal of the records, it is seen that the petitioner was not appointed as Grade II Warder as he was involved in a criminal case in Crime No.407/2012 under Sections 294(b), 326, 352, 307 of IPC. The petitioner was acquitted under the benefit of doubt and therefore, he is being treated as involved in a criminal case as per the provisions contained in the Special Rules for the Tamil Nadu Jail Subordinate Services Rules. The petitioner



W.P.No.27968 of 2017

WEB COPY

was informed for not appointing him in the post of Grade II Warder as per Memo No.3583/EW1/2017-2021 dated 17.11.2017 by the 2nd respondent. As per G.O.Ms.No.1410, Home (Pri-II) Department, dated 17.10.2008, a Notification has been issued incorporating certain amendments to the Special Rules for the Tamil Nadu Jail Subordinate Services, wherein it has stated as follows:

"(f)a person has not involved in any criminal case before Police Verification.

Explanation (1):A person who is acquitted or discharged on benefit of doubt or due to the fact that the complainant turned hostile, shall be treated as a 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."



W.P.No.27968 of 2017

6. Therefore, as per the Government Order, Explanation.1 is clearly attracted to the case of the petitioner. The petitioner also involved in a criminal case and thereafter, he was acquitted for the persecution failed to prove the criminal case beyond the reasonable doubt. Therefore, the petitioner was not honourably acquitted and only acquitted under the benefit of doubt. Therefore, this Court is not inclined to grant the relief.

Accordingly, this Writ Petition is dismissed. No costs.

09.11.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
mps

To

1. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old COP office Campus,
Pantheon Road,
Egmore,
Chennai 600 008.
2. The Additional Director,
General of Police & Inspector General of Prisons,



W.P.No.27968 of 2017

WEB COPY
Tamil Nadu Prison Department,
Whannels Road, Egmore,
Chennai 600 008.



WEB COPY



W.P.No.27968 of 2017

V.BHAVANI SUBBAROYAN, J,

mps

W.P.No.27968 of 2017

09.11.2023