



W.A.No.1515 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2023

CORAM :

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

AND

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.A.No.1515 of 2019

1. The Secretary to Government
Home (Police II) Department
Fort St.George
Chennai 600 009

2. The Chairman
Tamil Nadu Uniformed Services
Recruitment Board
Mount Road
Chennai 600 002

3. The Director General of Police
Chennai 600 004

.. Appellants

v.

V.Srinivasan

.. Respondent

Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 18.12.2012 made in W.P.No.13684 of 2005.



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W.A.No.1515 of 2019

For Appellants :: Mr.P.Kumaresan
Additional Advocate General
assisted by Mrs.P.Rajarajeswari
Government Advocate

For Respondent :: Mr.B.Leelesh Sundaram
for M/s Nathan & Associates

JUDGMENT

(Judgment of the Court was made by D.KRISHNAKUMAR,J.)

This intra-Court appeal, at the instance of the State, is directed against the impugned order dated 18.12.2012 passed in Writ Petition No.13684 of 2005.

2. The respondent/writ petitioner was one of the candidates who appeared in the selection process for the post of Grade II Police Constable for the year 2001-2003 and he came out successful in the written examination as well as in the other tests conducted by the respondent-Recruitment Board. However, during police verification, on the grounds that the respondent was involved in two criminal cases of Mappedu Police Station Crime No.38 of 2001 for the offence under Sections 341, 323, 506(ii) of IPC as Accused No.2 and Crime No.3 of 2002 for the offence



W.A.No.1515 of 2019

under Sections 147, 148, 324, 323 of IPC as Accused No.6 and that the pendency of the said criminal cases had been suppressed by the respondent in Serial No.18 of the declaration form, his candidature came to be rejected taking into account of his character and antecedents, in terms of Rule 14(b) of the Special Rules for Tamil Nadu Police Subordinate Service, and he was denied appointment to the post of Grade II Police Constable. When the respondent challenged the said order, the writ Court set aside the order impugned in the writ petition and directed the respondents therein to consider the case of the writ petitioner for selection and appointment to the post of Grade II Police Constable, uninfluenced by the said criminal cases. Aggrieved thereby, the instant intra-Court appeal has been filed by the State.

3. We have heard both sides and also perused the materials available on record.

4. The issue raised in the present writ appeal is no longer res integra. A Division Bench of this Court, in which one of us (D.Krishnakumar,J.) is a



W.A.No.1515 of 2019

party, in W.A.(MD)No.938 of 2020 etc. batch dated 05.06.2023 (The Director General of Police and others v. K.Indhu Kumar), after elaborately discussing on various factors to be considered in respect of police recruitment, has summarized the proposition of law, in paragraph-19 of the judgment, 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 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 trivial in nature, the same cannot be considered for appointment.

(emphasis supplied)

(d). Where a candidate having knowledge about his



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W.A.No.1515 of 2019

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 neighbours 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 Vs. S.Rajeshkumar).

(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 Police Subordinate Service Rules.”



W.A.No.1515 of 2019

5. In the light of the above, we are of the considered view that the case of the respondent herein squarely falls under category (c) of the proposition laid down in paragraph 19 of the decision cited supra. Even though the learned counsel appearing for the respondent canvassed before this Court that the offence alleged in the criminal case pertaining to Crime No.38 of 2001 on the file of Mappedu Police Station is only trivial in nature, we are not inclined to accept the said submission, since the judgment of the criminal Court dated 29.03.2007 passed in C.C.No.43 of 2003 reveals that the respondent was arrayed as Accused No.2 and was tried for the offence under Sections 341, 323, 506(ii) of IPC, which is grave in nature. Moreover, the respondent was acquitted only on benefit of doubt in the said case, which cannot be considered as a honourable acquittal. Although we find that the respondent has not been arrayed as an accused in the other case in C.C.No.301 of 2003 pertaining to Crime No.3 of 2002 of Mappedu Police Station, considering the fact that the respondent's case falls under category (c) of paragraph-19 of the Division Bench judgment cited supra and taking into consideration of the gravity of the offence, we are not inclined to interfere with the order passed by the authorities in rejecting the candidature



W.A.No.1515 of 2019

of the respondent for appointment as Grade II Police Constable on the ground of his involvement in the criminal case which is not trivial in nature, especially when the respondent suppressed this material fact at the time of submission of his application. In the result, the order passed by the writ Court is set aside and the writ appeal filed by the State stands allowed. Consequently, the writ petition filed by the respondent stands dismissed. Consequently, C.M.P.No.10283 of 2019 stands closed. There shall be no order as to costs.

(D.K.K.,J.) (P.B.B,J.)
20.07.2023

Index : yes/no
Neutral citation : yes/no

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W.A.No.1515 of 2019

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W.A.No.1515 of 2019

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