



WEB COPY



W.P.No.29859 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2023

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.29859 of 2018

and

W.M.P.No.34861 of 2018

S. PraveenKumar

.. Petitioner

Versus

1. The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
No.807 P.T. LeeChengaalvaraya Naicker Maaligai,
Anna Salai, Chennai 600 002.

2. The Director General of Police
Head Quarter – Officer of the Director General of Police,
Dr. Radhakrishnan Road,
Mylapore, Chennai 14

3. The Commissioner of Police
Officer of the Commissioner of Police
Vepary, Chennai – 07.

.. Respondents

Prayer: This Writ petition is filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus to call for the records of the 3rd respondent quash its impugned order dated 24.10.2017 in Na.Ka. No. R&T (1) 9050/2017 consequently direct first respondent to issue appointment order to petitioner whose name is found in the provisional list as 113475 – AR for the post of Grade II Police constable and pass orders.



W.P.No.29859 of 2018

WEB COPY

For Petitioner : Mr. B. Chandran

For Respondents : Mr. T. Chezhan
Additional Government Pleader

ORDER

This writ petition is filed to call for the records of the 3rd respondent quash its impugned order dated 24.10.2017 in Na.Ka. No. R&T (1) 9050/2017 consequently direct first respondent to issue appointment order to petitioner whose name is found in the provisional list as 113475 – AR for the post of Grade II Police constable

2. The case of the petitioner is that he had applied for the post of Grade II Police constable and came out successful in the written test and endurance/efficiency test and also cleared Medical Test and his name was provisionally included in the list. Under these circumstances the petitioner's selection was cancelled by the third respondent vide order 24.10.2017 in Na.Ka. No. R&T (1) 9050/2017 which is the impugned order herein. The impugned order was passed on the ground that the



W.P.No.29859 of 2018

WEB COPY

petitioner had involved in a criminal case. Aggrieved over the same the petitioner has filed this writ petition.

3. The learned counsel for the petitioner contend that the petitioner has been acquitted from the criminal case by the Metropolitan Magistrate, Egmore at Allikulam Chennai. He further submitted that at the time of applying for the said post he was acquitted from the criminal case. He further submitted that the impugned order passed by the 3rd respondent is a gross violation of principle of nature justice. Hence he prays to allow this petition.

4. Per Contra the learned Government Advocate submitted that the persons who has applied for the selection should not be involved in any criminal case and his character and antecedent should be satisfactory. He further submits that who have applied for the recruitment in the Uniformed Service are very well known that Police Verification will be done to ascertain their character and antecedents before giving appointment. Considering the antecedents of the petitioner, the impugned order has been passed by the third respondent.



W.P.No.29859 of 2018

WEB COPY

5. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondent and perused the materials available on record.

6. The question that arise for consideration in this petition is that a candidate who has been successfully passed all the tests conducted by the Respondent Board, his selection can be rejected or cancelled on the ground that he involved in a criminal case registered against him or he had not disclosed the criminal case registered against him in the application for the post of Grade II Police Constable.

7. The Division Bench of this Court while rendering Judgment in an identical issue in W.A.Nos.626, 627, 816 to 825 and 159 of 2014, considered the scope of rejection of the candidature to the post of Grade II Police Constable and following the judgment of the Hon'ble Supreme Court in ***Avtar Singh case (supra)***, observed that the involvement of the candidate in a criminal case may have adverse impact, the appointing authority would take a decision after considering the seriousness of the



W.P.No.29859 of 2018

WEB COPY

case and directed the Director General of Police to consider the case of the petitioner therein in the light of the decision rendered by the Hon'ble Supreme Court in *Avtar Singh case*, wherein the Hon'ble Supreme Court held as under:

"38.1. Information given to the employer by a candidate as to conviction, acquittal or arrest, or pendency of a criminal case, whether before or after entering into service must be true and there should be no suppression or false mention of required information.

38.2. While passing order of termination of services or cancellation of candidature for giving false information, the employer may take notice of special circumstances of the case, if any, while giving such information.

38.3. The employer shall take into consideration the government orders/instructions/rules, applicable to the employee, at the time of taking the decision.



WEB COPY



W.P.No.29859 of 2018

38.4. In case there is suppression or false information of involvement in a criminal case where conviction or acquittal had already been recorded before filling of the application/verification form and such fact later comes to knowledge of employer, any of the following recourses appropriate to the case may be adopted:

38.4.1. In a case trivial in nature in which conviction had been recorded, such as shouting slogans at young age or for a petty offence which if disclosed would not have rendered an incumbent unfit for post in question, the employer may, in its discretion, ignore such suppression of fact or false information by condoning the lapse.

38.4.2. Where conviction has been recorded in case which is not trivial in nature, employer may cancel candidature or terminate services of the employee.



W.P.No.29859 of 2018

38.4.3. If acquittal had already been recorded in a case involving moral turpitude or offence of heinous/serious nature, on technical ground and it is not a case of clean acquittal, or benefit of reasonable doubt has been given, the employer may consider all relevant facts available as to antecedents, and may take appropriate decision as to the continuance of the employee.

38.5. In a case where the employee has made declaration truthfully of a concluded criminal case, the employer still has the right to consider antecedents, and cannot be compelled to appoint the candidate.

38.6. In case when fact has been truthfully declared in character verification form regarding pendency of a criminal case of trivial nature, employer, in facts and circumstances of the case, in its discretion, may appoint the candidate subject to decision of such case.

38.7. In a case of deliberate suppression of fact with respect to multiple pending cases such false



W.P.No.29859 of 2018

information by itself will assume significance and an employer may pass appropriate order cancelling candidature or terminating services as appointment of a person against whom multiple criminal cases were pending may not be proper.

38.8. *If criminal case was pending but not known to the candidate at the time of filling the form, still it may have adverse impact and the appointing authority would take decision after considering the seriousness of the crime.*

38.9. *In case the employee is confirmed in service, holding departmental enquiry would be necessary before passing order of termination/removal or dismissal on the ground of suppression or submitting false information in verification form.*

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*



W.P.No.29859 of 2018

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.

9. The above Judgment has been cited by this Court in W.P.No.27926 of 2017 and disposed of the writ petition vide order dated 07.012020 with a direction to the authorities concerned to consider afresh the petitioner's selection for appointment to the post of Grade II police constable.

10. Taking note of the facts of the case and the Judgment passed by this Court in W.P.No.27926 of 2017, the third respondent is directed to consider the petitioner's selection for appointment afresh and pass orders on merits and accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.



WEB COPY



W.P.No.29859 of 2018



WEB COPY



W.P.No.29859 of 2018

11. With the above directions ,this writ petition is disposed of. No order as to costs. Consequently the connected miscellaneous petition is closed.

15.03.2023

Speaking order : Yes/No

Neutral citation : Yes/No

Index : Yes/No

smn

To

1. The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
No.807 P.T. LeeChengaalvaraya Naicker Maaligai,
Anna Salai, Chennai 600 002.

2. The Director General of Police
Head Quarter – Officer of the Director General of Police,
Dr. Radhakrishnan Road,
Mylapore, Chennai 14

3. The Commissioner of Police
Officer of the Commissioner of Police
Vepary, Chennai – 07.

4. The Section Officer, V.R.Section,
High Court, Madras.



WEB COPY



W.P.No.29859 of 2018

V.BHAVANI SUBBAROYAN, J.

smn

W.P.No.29859 of 2018
and
W.M.P.No.34861 of 2018

15.03.2023