



W.A.(MD)No.42 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2023

CORAM:

**THE HONOURABLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.A.(MD)No.42 of 2022
and
C.M.P.(MD)No.781 of 2022**

- 1.The Director General of Police,
Tamil Nadu,
Chennai.
- 2.The Chairman,
Tamil Nadu Uniformed Service Recruitment Board,
Pantheon Road,
Egmore, Chennai – 600 008.
- 3.The Superintendent of Police,
Office of the Superintendent of Police,
Thoothukudi District,
Thoothukudi.

... Appellants

-vs-

S.Arunkumar

... Respondent

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, to set aside the order dated 21.04.2021, made in W.P.(MD)No.7773 of 2021.



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For Appellants

: Mr.Veera.Karthiravan
Additional Advocate General
Assisted by
Mr.S.P.Maharajan
Special Government Pleader

For Respondent

: Mr.M.Kannan

JUDGMENT

[Delivered by the Hon'ble CHIEF JUSTICE]

We have heard Mr.Veera.Kathiravan, learned Additional Advocate General for the appellants and Mr.M.Kannan, learned counsel for the respondent.

2. The respondent filed Writ Petition with a prayer, challenging the letter, dated 13.03.2021, and seeking directions to appoint him in the post of Grade – II Police Constable.

3. The selection process for the post of Grade – II Police Constable was conducted in the year 2019. The respondent was provisionally selected. However, he was not issued with the appointment order on the ground that he failed to disclose his involvement in a criminal case. The learned Single Judge allowed the Writ Petition, directing the appellants to appoint the respondent in



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the post of Grade – II Police Constable with effect from the date of his original selection for the recruitment of the year 2019. Aggrieved thereby, the present Appeal is filed.

4. The learned Additional Advocate General for the appellants submits that the respondent in his affidavit also admitted that he failed to disclose his involvement in the criminal case. The ground taken by the respondent is that he had forgotten about the criminal complaint filed against him. As there is a suppression of the criminal case filed against him and his involvement in the criminal case, the appellants have rightly rejected the candidature of the respondent, *inter alia*, not issued the appointment order.

5. The learned Additional Advocate General relies upon the judgment of the Hon'ble Apex Court in the case of **Avtar Singh vs. Union of India and others** reported in **2016 (8) SCC 471**.

6. The learned counsel for the respondent submits that in the year 2014, the complaint was filed. The father of the respondent had quarrelled with one Isakkiraja. It is the respondent, who went there and pacified his father and brought him to home. The said Isakkiraja gave a complaint before



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the Kulathur Police Station on 20.10.2014 against the respondent also and a case in Crime No.148 of 2014 for the offence under Section 294(b) of I.P.C. was registered. The name of the respondent was deleted on the very same day, after the complainant gave his statement of 161(3) of Cr.P.C. The learned counsel further submits that in the verification application, the respondent had clearly stated that the criminal case was filed against him and his name was dropped. The learned Single Judge has properly considered the same.

7. We have considered the submissions canvassed by the learned counsels on either side and also perused the order passed by the learned Single Judge.

8. The post, for which, the respondent participated in the selection process, is of Grade - II Police Constable, that is the lowest cadre post. It appears that the F.I.R. was registered against the respondent under Section 294(b) of I.P.C. on 20.10.2014. However, the complainant gave statement under Section 161(3) of Cr.P.C., clearly admitting that the respondent was not involved and on the same day, his name was dropped. The incident was five years prior to the recruitment process of the year 2019. The respondent did not mention about that fact in the application. However, when he was required



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to file verification application, giving the details, he had specifically mentioned about the criminal case filed against him. He had further clarified in Question Nos.16 and 18 that he has not been convicted nor he has undergone any imprisonment nor any fine was imposed upon him and there is no case pending against him. The offence in question was a trivial offence, more so, on the very same day, the name of the respondent was dropped and the respondent was not even remotely concerned. On the contrary, it is the respondent, who had pacified his father and took him to home. The said fact certainly needs to be considered.

9. In the case of **Avtar Singh** (supra), the Hon'ble Apex Court has laid down various propositions. The Hon'ble Apex Court has also observed that while cancelling the candidature for giving false information, the employer may take notice of special circumstances of the case, if any, while giving such information.

10. In the present case, the offence under Section 294 (b) of I.P.C. was a trivial one. The name of the respondent was dropped on the very same day and his father has accepted his guilt and paid the fine of Rs.500/-. The complainant also in his 161(3) of Cr.P.C. statement, accepted that the



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respondent had no role to play. The same was five years prior to the recruitment process of the year 2019. It cannot be said that suppression of the said fact was deliberate or intentional.

11. In view of the facts and circumstances involved in the present case, we do not find that the learned Single Judge has committed any error while passing the order.

12. It is clarified that the appellants may consider the appointment of the respondent pursuant to the recruitment process of the year 2019. However, shall place the respondent in the last of seniority of the persons appointed in the said recruitment process. We are not interfering with the order of the learned Single Judge, directing the appellants to issue appointment order, as the respondent was selected, but, it is only on the ground of non-mentioning the criminal case, the appointment order was not issued.

13. The appointment order shall be issued within a period of six weeks from today. The respondent shall not be entitled for the monetary benefits till the date of appointment.



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WEB COPY 14. In the light of that, the Writ Appeal stands disposed of. No costs.

Consequently, connected Miscellaneous Petition is closed.

[S.V.G., .C.J.]

[L.V.G., J.]

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Index : Yes / No

Neutral Citation : Yes / No

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