

W.A. (MD) No. 938 of 2020 etc., batch cases

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 01.06.2023

PRONOUNCED ON : 05.06.2023

CORAM:

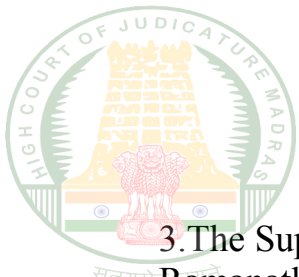
THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.A(MD).Nos.938 & 939 of 2020, 499 of 2021, 383, 396, 405, 422, 432, 474,
449 and 1257 of 2022 and 59 of 2023
and W.P(MD).Nos. 25130 of 2018, 14252 of 2021, 752, 10996, 11303, 11682
11834, 12459, 12985, 13140, 15022, 17969 and 19617 of 2022
and
CMP(MD).Nos.5172 & 5173 of 2020, 2133 & 2134 of 2021, 3890 of 2022,
4010 of 2022, 4108 of 2022, 4200 of 2022 and 9777 of 2022
and
WMP.No.11187 & 11189 of 2021, 594 & 10266 of 2022, 7927 of 2022, 8072
of 2022, 8263, 8266 & 8268 of 2022, 8835 & 8836 of 2022, 9217 of 2022,
9336 of 2022, 10747 & 10748 of 2022, 13121 of 2022 and 14329 of 2022

W.A(MD).No.938 of 2020

1.The Director General of Police,
Tamil Nadu Police Department,
Mylapore, Chennai 600 004.

2.Tamil Nadu Uniformed Services Recruitment Board,
Represented by its Member Secretary,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore, Chennai.



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

...Appellants/Respondents

Vs

K.Indhu Kumar

...Respondent/Writ Petitioner

Prayer in WA(MD).No.938 of 2020: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 10.05.2019 made in W.P(MD).No. 14248 of 2018 on the file of this Court and allow the Writ Appeal.

W.A.No.938 of 2020

For Appellants : Mr.Veera Kathiravan
Additional Advocate General
Assisted by Mr.K.Balasubramani
Special Government Pleader

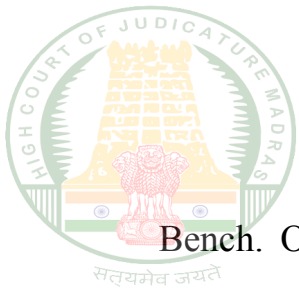
For Respondent : Mr.G.Thalaimutharasu

COMMON JUDGMENT

(MADE BY D.KRISHNAKUMAR, J.
and
R.VIJAYAKUMAR, J.)

(A).FACTUAL BACKGROUND:

Considering the common issue involved, the above 12 Writ Appeals and 13 Writ Petitions have been tagged together and posted before the Division



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Bench. Out of the 12 Writ Appeals, 9 Writ Appeals have been filed by the aspirants to the post of Grade-II Police Constable challenging the order of writ Court confirming the rejection of their selection. 3 Writ Appeals have been filed by the Department challenging the allowing of the writ petitions by the writ Court with a direction to select the aspirants. 13 writ petitions filed by the aspirants challenging their rejection of selection were listed before the learned Single Judge and they have tagged to Writ Appeals and listed before the Division Bench.

2.The common issue that arises for consideration before the Division Bench is the effect of involvement of an aspirant in a criminal case for the post of Grade-II Police Constable with regard to his selection and appointment. 7 Writ Petitions relate to the selection of the year 2017, 9 Writ Petitions relate to the selection of the year 2019 and another 9 Writ Petitions relate to the selection of the year 2020.

(B).SERVICE RULES

3.Before venturing into the discussion, we would like to extract the relevant Service Rules and Judgements of the Hon'ble Supreme Court and Full Bench of our High Court.



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WEB COPY 4. ***Rule 14(b) of the Tamil Nadu State Police Subordinate Service Rules***

is extracted as follows:

“(b). No person shall be eligible for appointment to the service by direct recruitment unless he satisfies the appointing authority that.

(i).that he is sound health, active habits and free from any bodily defect or infirmity unfitting him for such service and

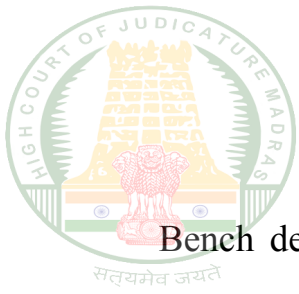
(ii).that his character and antecedents are such as to qualify him for such service and

(iii).that such a person does not have more than one wife living and

(iv). That he has not involved in any criminal case before police verification.”

5.This Service Rule was put to challenge before this Court and the validity of the same was upheld by the decision of the Full Bench of our High Court in a judgement reported in **2008 (2) CTC 97 (Manikandan & others Vs. Chairman, Tamil Nadu Uniformed Services)**.

6.The law laid down in the said Full Bench was again referred to a Larger Bench. The Larger Bench by its decision reported in **2014 (2) CTC 337 (J.Alex Ponseelan Vs. Director General of Police)** has not only confirmed the Full



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Bench decision as a good law but also held that Rule 14(b)(4) together with explanation 1 and 2 of Tamil Nadu Police Subordinate Service Rules to be intra vires of the constitution.

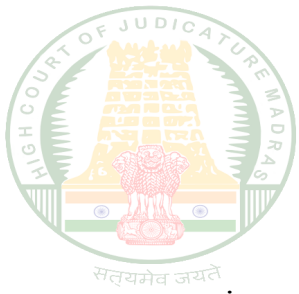
7. After relying upon various judgements of the Hon'ble Supreme Court, a Director General of Police has issued a communication on 22.02.2021 under which instructions have been issued to the Commissioner of Police and Superintendent of Police of the respective Districts for verification of the provisionally selected candidates. The said communication is the Office Memo in C.No.1268/20889/Rect.II (1)/2015 dated 17.12.2015 in which Paragraph Nos.6 to 11 are extracted as follows:

“6. All the appointing authorities are requested to go through the relevant rules, court orders (Full Judgement available in High Court website), details of criminal case, role of the candidate in that case, present stage of case, judgement delivered etc, in a careful manner and issue necessary endorsement regarding rejection of their candidature under proper acknowledgement.

7. The following points should also be considered before issuance of the endorsement.

a. Every case has to be judged on its merits.

b. “Honourable acquittal” restores the right of individual. Hence, honourable acquittal before the date of police verification means that the candidate must be considered favourably.



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c. A case referred on “Mistake of Fact” has to be favourably viewed for the candidate.

d. Discharge on technical grounds (hostile witnesses) does not entitle the candidate for automatic clearance and the appointing authorities may still reject the candidature on ground of unsuitability to do the nature of the duty.

e. Suppression of involvement in a case still under investigation or trial or not ending in honourable acquittal is a ground sufficient for rejection of the candidate. .

f. Petty cases should not lead to over penalization.

8.It is also informed that the following types of candidates were considered for appointment to the post of SI of Police/Gr.II PCs on earlier occasions.

i) The candidates acquitted honourably prior to Police Verification.

ii).The personal released under probation of offenders act were treated as not involved in a criminal case, in view of Section 12 of the PO Act 1958 which stipulates that convicts released on Probation of Conduct Act or after admonition by the Court shall not suffer any disqualification attached to the conviction.

iii).The persons released under Juvenile Act were treated as not involved in a criminal case. Section 19 of the Juvenile Justice (Care and Protection of Children) Act 2000 which stipulates that a Juvenile has committed an offence and has been dealt with under provision of this act shall not suffer disqualification, if any attached to conviction of an offence under such law.



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iv). If any political affiliation on the candidate comes to notice during the Police verification, it will not be held against him, unless he is having other bad antecedents. However, he shall be instructed not to involved in such activities as per conduct rules.

v). The candidates whose names are deleted from the charge sheet.

vi). The cases treated as Mistake of fact prior to police verification.

vii). Some of the candidates involved in petty cases were considered.

viii). Accident cases were considered if the case was pending at the time of police verification and if there was no suppression of fact.

ix). The case in which the I.O registered the case against a minor candidates under IPC and not under Juvenile Justice Act, his case were considered for appointment.

x). The cases where fine was imposed up to Rs.2000/- were considered.

9. The date of Police Verification is the date on which the verifying Officer (ie. Not below the rank of SI of Police) is counter signing the verification Roll)

10. The persons who are acquitted under benefit of doubt (or) hostility of complainant will be treated as involved in criminal case and he will not be considered for appointment as per Rule 14(b) of TNSPSS Rules (or) Rule 13 of TNPSS Rules.

11. Regarding “ Honourable Acquittal”, the Hon'ble Supreme Court of India in SLP(Civil Appeal No.4842/2013 in their orders, dated 02.07.2013 (arising out of SLP (Civil) No. 38886/2012) filed by the Commissioner of Police, New Delhi and another (Appellants) -versus-



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*Mehar Singh have made observations in Para 21 of the said order and the same may be referred)”.
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(C). DISCUSSION

8.The Writ Appeals and the Writ Petitions that are listed before us challenging the rejection of the candidature or accepting the candidature can be classified on the following grounds:

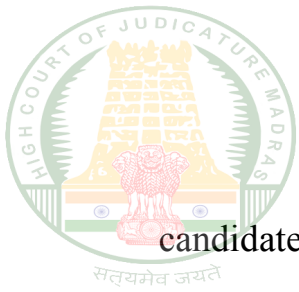
“(1). Honourable acquittal, discharged mistake of fact, quashing of F.I.R/ charge sheet.

(2).Acquitted on benefit of doubt or due to hostility of the witnesses.

(3). Proceedings quashed on compromise between the parties.”

(1). Honourable acquittal, discharge mistake of fact, quashing of F.I.R/ charge sheet.

(a).Rule 14(b)(iv) of Tamil Nadu State and Subordinate Service Rules lays down that a candidate should not be involved in any criminal case before police verification. Explanation (2) to the above said Rule lays down that in case if a candidate has been honourably acquitted or the criminal case has been closed as a mistake of fact, the same shall be treated as not an involvement of the criminal case. The Rules further lay down that the said candidate can make a claim for appointment only by participating in the next recruitment. However, the communication of Director General of Police dated 17.12.2015. If the



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candidate has been honourably acquitted before the date of police verification or referred as mistake of fact may be favourably viewed for candidate.

(b). The communication further points out that the candidate whose name was deleted from the charge sheet can also be considered for appointment in the said selection itself.

(c). Therefore, it is clear that if a candidate has been discharged or the case has been closed as mistake of fact or if the F.I.R or charge sheet have been quashed on merits, this will lead to only one conclusion that the candidate was not at all involved in the said criminal case. His candidature should be considered in the said selection itself without relegating him to the next selection process.

(2).Acquittal on the ground of benefit of doubt or hostility of witnesses:

(a).Explanation (1) to Rule 14(b) of Service Rule indicates that a person who is acquitted on benefit of doubt or on the ground that the complainant turned hostile shall be treated as a person involved in a criminal case.

(b).The Hon'ble Supreme Court in a Judgement reported in **(2022) 1 SCC 1 (Union of India and others Vs. Methu Meda)** in Paragraph No.21 has held as follows:

“21.As discussed hereinabove, the law is well-settled. If a person is



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acquitted giving him the benefit of doubt, from the charge of an offence involving moral turpitude or because the witnesses turned hostile, it would not automatically entitle him for the employment, that too in disciplined force. The employer is having a right to consider his candidature in terms of the circulars issued by the Screening Committee. The mere disclosure of the offences alleged and the result of the trial is not sufficient. In the said situation, the employer cannot be compelled to given appointment to the candidate. Both the Single Bench and the Division Bench of the High Court have not considered the said legal position, as discussed above in the orders impugned. Therefore, the impugned orders passed by the learned Single Judge of the High Court in Methu Meda v. Union of India and the Division Bench in Union of India v. Methu Meda are not sustainable in law, as discussed hereinabove”

(c). Therefore, it is clear that if a candidate has been acquitted giving him benefit of doubt or because of witnesses have turned hostile, that would not confer any right upon the candidate to claim appointment as a matter of right. It is for the employer to consider his candidature.

(d).The Hon'ble Supreme Court in a judgement reported ***in (2016) 8 SCC Page 471 (Avtar Singh Vs. Union of India and others)*** in Paragraph No.**13 or 38.4.3 has held as follows:**

“38.4.3.If acquittal had already been recorded in case involving



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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”

(e). If the candidate was involved in a criminal nature of trivial case and he has also truthfully declared the same, even in cases where conviction have been recorded which would not render the incumbent unfit for the post in question, the employer can consider him for the post and the same is at the discretion of the employer. However, if acquittal is recorded in the case involving moral turpitude or offence of heinous/ serious nature on the ground of benefit of doubt or any other technical ground, the employer may consider the relevant facts available as to the appointment.

(3).Compromise Quash:

Where the parties have entered into a compromise in a criminal proceedings and due to the said compromise, the proceedings have been quashed, the Hon'ble Supreme Court in a Judgement reported ***in 2020 SCC Online SC 199 (State of Odisha and others Vs. Gobinda Behera)*** in Paragraph No.8 has held as follows:

“8.In the present case, the case against the respondent cannot be



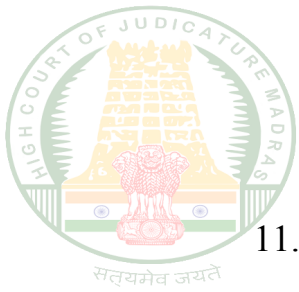
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regarded as being trivial in nature. That apart, it is evident that, despite being involved in the criminal case, the respondent suppressed these facts from the authorities while applying for the post of a Constable in the State Police. The criminal case was quashed in exercise of the jurisdiction under Section 482 of Cr.P.C on the basis of a compromise between the parties much after the order of discharge. Hence, the view which has been taken by the High Court is palpably unsustainable. The Tribunal was justified in rejecting the application”

9. Therefore, it is clear that where the parties have entered into a compromise and based upon the said compromise, the proceedings have been quashed and the candidate was involved in an offence which was not as a trivial in nature, the same cannot be construed in favour of the candidate. It is for the employer to decide the candidature. It lies in the discretion of the employer to accept the candidature or not.

10. Petty and Trivial Cases:

The cases arising out of family dispute or with neighbors shouting of slogans and traffic offences where fine was imposed, can be considered to be offences of trivial in nature. Any offences against women, children or under NDPS Act should never be construed to be offences of trivial in nature.



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11. In all cases where the candidates were acquitted on benefit of doubt or on technical ground in cases of trivial in nature, the employer will have the discretion to accept the candidature or not considering the conduct and antecedents of the said candidate.

12. Suppression of involvement in a criminal case:

The suppression of involvement in a criminal case will clearly dis-entitle a candidate for the post for which he has applied. The Hon'ble Supreme Court in a Judgement reported *in (2013) 7 SCC 685 (Commissioner of Police, New Delhi and another Vs. Mehar Singh)* in Paragraph No.34 has held as follows:

“34. The respondents are trying to draw mileage from the fact that in their application and/or attestation form they have disclosed their involvement in a criminal case. We do not see how this fact improves their case. Disclosure of these facts in the application/attestation form is an essential requirement. An aspirant is expected to state these facts honestly. Honesty and integrity are inbuilt requirements of the police force. The respondents should not, therefore, expect to score any brownie points because of this disclosure. Besides, this has no relevance to the point in issue. It bears repetition to state that while deciding whether a person against whom a criminal case was registered and who was later acquitted or discharged should be appointed to a post in the police force, what is relevant is the nature of the offence, the extent of his involvement, whether the acquittal was a clean acquittal or an acquittal by giving benefit of



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doubt because the witnesses turned hostile or because of some serious flaw in the prosecution, and the propensity of such person to indulge in similar activities in future. This decision, in our opinion, can only be taken by the Screening Committee created for that purpose by the Delhi Police. If the Screening Committee's decision is not mala fide or actuated by extraneous considerations, then, it cannot be questioned.

13. The Hon'ble Supreme Court in a judgement reported in **(2016) 8 SCC 171 (Avtar Singh Vs. Union of India and others)** in Paragraph No. 38.4 has held as follows:

“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 filing 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.”

14. The Hon'ble Supreme Court in a judgement reported in **(2012) 8 SCC Page 748 (Jainendra Singh Vs. State of Uttar Pradesh through Principal Secretary, Home and others)**, Paragraph No. 29.5, 29.6 and 29.7 has held as follows:

“29.5. The purpose of calling for information regarding involvement in any criminal case or detention or conviction is for the purpose of verification of the character /antecedents at the time of recruitment and suppression of such material information will have a



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clear bearing on the character and antecedents of the candidate in relation to his continuity in service.

29.6. The person who suppressed the material information and / or gives a false information cannot claim any right for appointment or continuity in service.

29.7. The standard expected of a person intended to serve in uniformed service is quite distinct from other services and, therefore, any deliberate statement or omission regarding a vital information can be seriously viewed and the ultimate decision of the appointing authority cannot be faulted.”

15. The Hon'ble Supreme Court in a judgement reported in (2021) 10 SCC Page 136 (Rajasthan Rajya Vidyut Prasaran Nigam Limited and Another Vs. Anil Kanwariya) in Paragraph No.14 has held as follows:

“14. The issue/question may be considered from another angle, from the employer's point of view. The question is not about whether an employee was involved in a dispute of trivial nature and whether he has been subsequently acquitted or not. The question is about the credibility and/or trustworthiness of such an employee who at the initial stage of the employment, i.e., while submitting the declaration/verification and/or applying for a post made false declaration and/or not disclosing and/or suppressing material fact of having involved in a criminal case. If the correct facts would have been disclosed, the employer might not have appointed him. Then the question is of TRUST. Therefore, in such a



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situation, where the employer feels that an employee who at the initial stage itself has made a false statement and/or not disclosed the material facts and/or suppressed the material facts and therefore he cannot be continued in service because such an employee cannot be relied upon even in future, the employer cannot be forced to continue such an employee. The choice/option whether to continue or not to continue such an employee always must be given to the employer. At the cost of repetition, it is observed and as observed hereinabove in catena of decision such an employee cannot claim the appointment and/or continue to be in service as a matter of right.”

16.The Hon'ble Supreme Court in a judgement reported **in 2022 SCC Online SC 1300 (Satish Chandra Yadav Vs. Union of India and others)** in Paragraph No.90(c)(d) have held as follows:

90....

(c).The suppression of material information and making a false statement in the verification Form relating to arrest, prosecution, conviction etc., has a clear bearing on the character, conduct and antecedents of the employee. If it is found that the employee had suppressed or given false information in regard to the matters having a bearing on his fitness or suitability to the post, he can be terminated from service.

(d)The generalisations about the youth, career prospects and age of the candidates leading to condonation of the offenders' conduct, should not



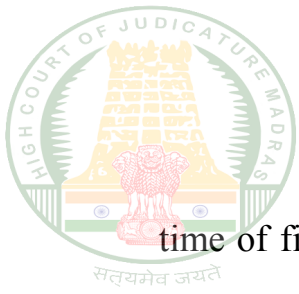
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enter the judicial verdict and should be avoided”.

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17. In view of the Judgements of the Hon'ble Supreme Court, it is clear that where a candidate had knowledge about his involvement in the criminal case, but he had suppressed the same either at the time of application or at the time of police verification, he is not entitled to get an appointment. However, the Hon'ble Supreme Court in a judgement reported in **(2016) 8 SCC Page 471 (Avtar Singh Vs. Union of India and others)** in Paragraph No.38.4.1 has held that if the criminal case in which the candidate is involved is of trivial in nature, the employer may, in his discretion, can ignore such suppression of fact or false information by condoning the lapse. In Paragraph 38.8, the Hon'ble Supreme Court has held that if the pendency of the criminal case was not informed to the candidate at the time of filing the form, still it may have adverse impact and the appointing authority would take decision after considering the seriousness of the crime. In Paragraph 38.11, the Hon'ble Supreme Court has held that before a person is held guilty of suppressio veri or suggestio falsi, knowledge of the fact must be attributable to him.

18. Therefore, from the judgements of the Hon'ble Supreme Court, it is clear that once the candidate is having knowledge about his involvement in a criminal case (not being of trivial in nature) had suppressed the same at the



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time of filing of an application, he is not entitled to seek any appointment. But in cases where the information was not furnished in the application form relating to an offence (not being trivial in nature), the employer in his discretion is entitled to consider his candidature by considering his character and past antecedents.

(D). SUMMARY OF PREPOSITION OF LAW:

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 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



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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



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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 State Police Subordinate Service Rules.

(E). INDIVIDUAL CASES:

20.In the light of the above preposition of law, let us consider the individual cases.

21.W.A(MD).No.938 of 2020:

(a).The candidate namely K.Indhukumar was appointed to the post of Grade-II Police Constable in the year 2017. During the police verification, he was found to have been involved in a criminal case in Crime No.20 of 2016 on the file of the Mandapam Police Station for the alleged offences under Sections 147, 294(b) and 323 I.P.C dated 28.02.2016. However, he was acquitted on 08.09.2017 on the ground that the witnesses have turned hostile. The notification for recruitment was issued on 23.01.2017. The police verification was done on 14.09.2017. The appointing authority had found that the candidate had suppressed about the involvement in the criminal case and it came to light



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only during the police verification. Based on the said facts, his candidature was rejected by the Superintendent of Police, Ramanathapuram. This order was challenged by the candidate in W.P(MD).No.14248 of 2018.

(b).The writ Court was pleased to categorize the cases into three categories under which the present writ petition had fallen in the first category in which the impugned order was passed and a positive direction was issued to the respondent to consider the candidature of the writ petitioner for selection and appointment. This order of the writ Court is under challenge in the present writ appeal.

(c).According to the learned Additional Advocate General, the candidate was involved in a criminal case in which an F.I.R was registered on 28.02.2016. The notification for the recruitment was issued on 23.01.2017. In the application form, his involvement in the criminal case has been completely suppressed. Therefore, the writ Court ought not to have allowed the case of the writ petitioner and granted the positive direction in favour of the writ petitioner.

(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



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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.

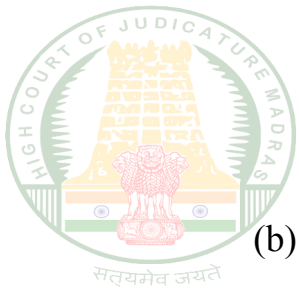
(e). It is for the employer to consider the suitability of the candidate based upon his conduct and antecedents only if the offences are trivial in nature.

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

(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:

(a). The candidate namely M.Muthu Eswaran was found to be involved in a criminal case in Crime No.8 of 2011 for the offence under Sections 294(b), 323, 324 and 506(ii) I.P.C dated 22.04.2011 and he was acquitted on 05.12.2013 on the ground of hostility of witnesses. The candidate was arrayed as Accused No.3 and he was arrested on 23.04.2011. The notification of recruitment was issued on 23.01.2017. In the application form, the candidate has suppressed about his involvement in the criminal case. It was informed by the candidate only during the police verification on 14.09.2017.



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(b).The Superintendent of Police, Ramanathapuram had passed an order on 24.04.2018 rejecting his candidature on the ground that he had suppressed his involvement in the criminal case. Further, he found that his character and antecedents are not satisfactory. The said order was challenged by the candidate in W.P(MD).No.16501 of 2018.

(c).The writ Court was pleased to allow the writ petition and issued a positive direction for selection and appointment of the candidate. The said order is under challenge in the present appeal.

(d).According to the learned Additional Advocate General, the candidate was arrested on 23.04.2011 and therefore, it cannot be said that he was not aware of his involvement in the criminal case. He had contested the criminal case and he was acquitted on 05.12.2013 on the ground of hostility of witnesses. Therefore, it is a clear case of suppression of his involvement in the criminal case while submitting an application on 15.02.2017.

(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



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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 judgement. No costs. Consequently, connected miscellaneous petition is closed.

23.W.A(MD).No.499 of 2021

(a).The candidature of one S.Rahul Raj was rejected by the Superintendent of Police, Theni on the ground that during police verification, it was found that a criminal case in Crime No.96 of 2017 for the offences under Section 294(b), 324 and 506(ii) I.P.C on the file of the Kombai Police Station was registered on 21.04.2017. The candidate has been honourably acquitted by the Judicial Magistrate, Bodi on 01.08.2017. According to the authorities, the candidate has wantonly suppressed the relevant and viral information with reference to his involvement in the criminal case and knowingly furnished a false information for getting appointment. The candidate had submitted his application on 15.02.2017 for the post suppressing his involvement and the



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acquittal. This order was challenged by the candidate in W.P(MD).No.11344 of

2018.

(b).The writ Court had dismissed the writ petition refusing to interfere in the decision taken by the authorities. Challenging the same, the present writ appeal has been filed.

(c).According to the learned counsel appearing for the appellant, the candidate was involved in a trivial offence and he has been honourably acquitted on 01.08.2017. Mere suppression of involvement in a trivial offence, would not disqualify the candidate from getting appointment.

(d).In the present case, the appellant/petitioner has been honourably acquitted by the Court prior to police verification. Therefore, we are of the view that the order impugned in the writ petition has to be set aside and a positive direction could be issued to the concerned authority to select and appoint the appellant/petitioner.

(e).Accordingly, this Writ Appeal is allowed and the order impugned in the writ petition is set aside. No costs. Consequently, connected miscellaneous petitions are closed.

24.W.A(MD).No.383 of 2022

(a).The candidate namely R.Ravichandran was involved in a

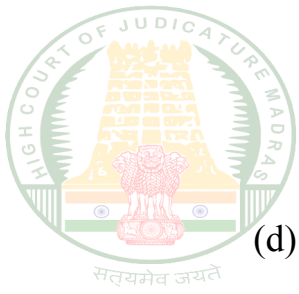


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criminal case in Crime No.333 of 2019 for the offences under Sections 294(b), 323, 324 and 506(i) I.P.C on 16.07.2018. The notification for recruitment was issued on 08.03.2019. The parties entered into a compromise and the F.I.R was quashed in CrI.OP(MD).No.15297 of 2019 on 23.10.2019.

(b).In the present case, the candidate was involved in a criminal case after submission of his application. When the police verification was conducted on 22.04.2021, it was informed by the candidate about the compromise quash. However, his candidature was rejected on that ground that his character and antecedents are not satisfactory in nature. The said order was challenged by the candidate in WP(MD).No.16277 of 2021. The writ court was pleased to dismiss the writ petition on the ground that the decision of the selection committee is final. It further found that when the selection committee has formed an opinion that the criminal case compromised would not be a ground to consider selection, the writ Court cannot interfere. Challenging the said order, the present writ appeal has been filed by the candidate.

(c).Considering the fact that the criminal case has been quashed before the police verification on the basis of compromise and the offences are trivial in nature, we are of the considered opinion that the candidate is eligible to be considered for appointment in the current recruitment process itself.



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(d). In view of the above said facts, the writ appeal is allowed and the order impugned in the writ petition is set aside. The respondents are directed to select and appoint the petitioner in the current recruitment process itself. No costs. Consequently, connected miscellaneous petition is closed.

25.W.A(MD).No.396 of 2022:

(a). The candidate by name S.Jeyachandran was involved in a criminal case in Crime No.187 of 2011 for the offence under Section 309 I.P.C dated 17.04.2011. He was acquitted on 22.07.2012 on the ground of benefit of doubt. The notification was issued for the recruitment on 08.03.2019. The candidate had suppressed his involvement and acquittal while submitting his application on 14.04.2019 and also during the police verification on 23.04.2021. Based upon the said ground, his candidature was rejected by the authority. Challenging the same, the candidate had filed W.P(MD).No.17040 of 2021.

(b). The writ court was pleased to dismiss the said writ petition on the ground that the petitioner having suppressed his involvement in his application and therefore, he would not be eligible for appointment. This order is under challenge in the present writ appeal.

(c). The learned counsel appearing for the appellant had contended that the candidate has been acquitted by the criminal Court even before the date of



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notification. That apart, during his young age, he is involved in a petty offence and cases of trivial in nature, even in case of suppression, the same can be ignored and the candidate can be considered in the appointment.

(d).In the present, the candidate has been charge sheeted in attempting to commit suicide. Hence, his case may be considered in the light of the judgement of the Hon'ble Supreme Court reported in **(2016) 8 SCC 471 (Avtar Singh Vs. Union of India and others)**.

(e).The candidate has attempted to commit suicide on 17.04.2011 and he had suppressed the fact, when he filed the application on 14.04.2019 and also during police verification on 23.04.2021. As per Rule 14(b)(ii) of the Tamil Nadu State Police Subordinate Service Rules, we are of the opinion that his character and antecedents do not qualify him for uniformed police service. Therefore, we are not inclined to interfere in the order passed by the writ Court and this writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

26.W.A(MD).No.405 of 2022:

(a).The candidature of M.Prabu was rejected by the authorities on 26.04.2018 on the ground that he was involved in a criminal case in Crime No. 263 of 2016 for the offence under Sections 324 and 506(ii) I.P.C on 31.10.2016.



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However, the F.I.R was quashed in Crl.O.P(MD).7353 of 2017 on 12.06.2017.

The candidate has informed about his involvement in the criminal case both in the application as well during the verification process. However, his candidature was rejected by the authorities on the ground that it was only a compromise quash and guilt as against the candidate remains questionable. This order was challenged by the candidate in W.P(MD).No.17792 of 2021.

(b).The writ court was pleased to dismiss the writ petition on the ground that the selection committee is of the opinion that the compromise of a criminal case would not be a ground to consider the said selection. The said order is under challenge in the present writ appeal.

(c).A perusal of the F.I.R in Crime No.263 of 2016 indicates that the offences are trivial in nature and it is a family dispute between the first wife and the second wife's children. That apart, the said criminal case has been quashed on the basis of compromise entered into between the parties even before the notification date. The candidate has voluntarily informed about his involvement in the criminal case both at the time of application as well as at the time of police verification.

(d).In view of the above said facts, we are of the opinion that the candidate should be considered in the current selection process itself. The writ



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appeal is allowed and the order impugned in the writ petition is set aside. The respondents are directed to select and appoint the petitioner in the current selection process itself. No costs. Consequently, connected miscellaneous petition is closed.

27.W.A(MD).No.422 of 2022

(a).The candidate by name M.Prabakaran was involved in a criminal case in Crime No.35 of 2018 for the offence under Section 160 I.P.C on 09.02.2018 and he was arrested on the same day. He was honourably acquitted on 16.03.2020. However, the said fact was suppressed in the application form, but it was revealed only during police verification on 10.02.2020. Considering the fact that the candidate has suppressed his involvement in a criminal case, the candidature was rejected by the respondents. Challenging the same, the petitioner had filed 19314 of 2021.

(b).The writ Court was pleased to dismiss the writ petition on the ground that the candidate has suppressed his involvement and therefore, refused to interfere in the order passed by the selection committee. This order is under challenge in the present writ appeal.

(c).According to the learned counsel appearing for the appellant, the candidate has been honourably acquitted on 16.03.2020 and therefore, he



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should be considered in the present selection.

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(d). Admittedly, the candidate has not disclosed about his involvement in the criminal case while submitting his application. However, he was honourably acquitted on 16.03.2020. The candidate had disclosed about the criminal case during the police verification on 10.02.2020. Therefore, it is clear that only after police verification, the candidate has been acquitted honourably.

(e). In view of the above said facts, we are of the opinion that the candidate would not be entitled to seek appointment as a matter of right in the current selection process. However, he would be eligible to be considered for appointment during the next selection process.

(f). With the above said observations, this writ appeal stands dismissed. No costs.

28.WA(MD).No.432 of 2022:

(a). The candidate by name S.Azarudeen was involved in a criminal case in Crime No.986 of 2017 for the offences under Sections 294(b), 324 and 506(ii) I.P.C on 24.11.2017 and he was arrested on the same day. He was acquitted by the Judicial Magistrate No.I, Virudhunagar on 30.07.2018 on the ground that the complainant had turned hostile. The notification for selection was issued on 08.03.2019. The candidate has suppressed his involvement while



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submitting his application on 16.03.2019. However, he had disclosed the same during the police verification on 10.02.2020. On the ground of suppression, his candidature was rejected by the respondents. Challenging the same, the candidate had filed W.P(MD).No.22319 of 2021.

(b).The writ Court was pleased to dismiss the writ petition refusing to interfere in the decision of the selection committee on the ground that the candidate had suppressed his involvement in the criminal case. This order is under challenge in the present writ appeal.

(c).According to the learned counsel appearing for the appellant, the offences alleged as against the appellant are trivial in nature and they do not attribute any kind of serious crime element or any kind of moral turpitude so as to disqualify him for any public employment. He had further contended that, non-disclosure of involvement in a criminal case at a very young age which is of trivial in nature can be condoned and ignoring such suppression, the suitability of the candidate may be considered.

(d).In the present case, the candidate has been acquitted on 30.07.2018 on the ground that the complainant had turned hostile. Therefore, the acquittal is prior to the police verification which was conducted on 10.02.2020. Whenever a candidate is acquitted on the ground of hostility of witnesses that would not



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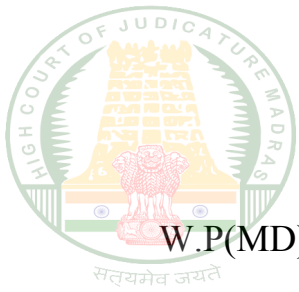
confer any right upon the candidate to claim appointment as a matter of right. It is for the employer to consider the suitability of the candidate based upon his conduct and antecedents only if the offences are trivial in nature.

(e). In the present case, we are of the opinion that the offences are trivial in nature and therefore, it is for the employer to take a call upon the suitability of the candidate.

(f). In view of the above said facts, this writ appeal is allowed and the order impugned in the writ petition is set aside and the matter is remitted back to the file of the respondents for fresh consideration in the light of the proposition of law summarized in Paragraph No.19 of this judgement. No costs. Consequently, connected miscellaneous petition is closed.

29.W.A(MD).No.474 of 2022:

(a). The candidate by name V.Gokulganesh was involved in a criminal case in Crime No.139 of 2017 for the offence under Sections 294(b), 324 and 506(ii) I.P.C on 17.05.2017. The said F.I.R was quashed in CrI.OP(MD).No. 17444 of 2018 on 28.09.2018. The candidature was rejected by the respondents on the ground that while submitting his application, he has not referred about his involvement in a criminal case and he has also suppressed during police verification on 12.09.2017. Challenging the said order, the candidate has filed



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(b).The writ Court was pleased to dismiss the writ petition on the ground that the candidate had suppressed his involvement in a criminal case during police verification. The writ Court further found that where the offence is not of trivial in nature and therefore, deserves no merit for consideration and dismissed the writ petition. Challenging the said order, the present writ appeal has been filed.

(c).The learned counsel appearing for the appellant had contended that this Court by order dated 28.09.2018 had quashed CrI.OP(MD).No.17444 of 2018. The learned Judge of this Court had categorically found that the petitioner has been roped in with a malafide intention and proceeded to quash the F.I.R on the ground that it is a clear case of abuse of process of law. Therefore, he prayed that the order impugned in the writ petition may be set aside and the candidature of the petitioner may be considered for current selection.

(d).In the criminal case, an F.I.R was registered as against the candidate on 17.05.2017 and the charge sheet was quashed by this Court on 28.09.2018 on the ground that it is an abuse of process of law. The candidate has submitted his application on 15.02.2017 which is prior to the registration of F.I.R. However, at the time of police verification on 12.09.2017, the candidates has not



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mentioned about the pendency of the criminal case. The charge sheet has been quashed only after the date of police verification.

(e).Therefore, the petitioner would not be entitled to consider his name in the present selection. However, he is entitled to be considered in the next selection process.

(f).With the above observation, this writ appeal stands dismissed. No costs.

30.W.A(MD).No.449 of 2022:

(a).The candidate by name R.Vilvaraj was involved in a criminal case in Crime No.36 of 2015 for the offence under Sections 279 and 337 I.P.C on 27.01.2015. He was convicted and sentenced to pay a fine of Rs.900/- on 11.12.2015. The notification for recruitment was issued on 23.01.2017 and he had submitted his application on 20.02.2017 by suppressing his involvement and conviction. During the police verification done on 12.09.2017 also he had suppressed the said fact. For the above said grounds, the candidature was rejected by the respondents. Challenging the same, the petitioner had filed W.P(MD).No.3592 of 2020.

(b).The writ court was pleased to dismiss the writ petition on the ground that the suitability, eligibility and antecedents of a candidate has to be decided



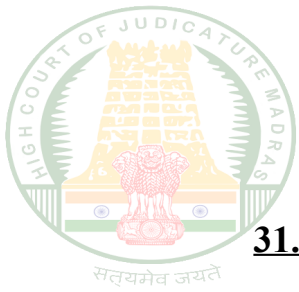
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only by the selection committee and the writ court was not inclined to interfere in the discretion exercised by the selection committee. Challenging the same, the present writ appeal has been filed.

(c).According to the learned counsel appearing for the appellant, the criminal case pertains to a traffic offence and he was released on station bail and therefore, it fallen within a category of trivial offence and therefore, the suppression should not be put against the candidate.

(d).A perusal of the F.I.R indicates that a complaint has been lodged as against the candidate alleging that he had driven a two wheeler in a rash and negligent manner and dashed against the complainant and two others causing grievous injuries. The candidate has been convicted and he was sentenced to pay a fine of Rs.900/-. These facts have been suppressed during the submission of application as well as during the police verification. It further indicates that it is not an offence of trivial in nature and therefore, the suppression cannot be brushed aside.

(e).In view of the above said facts, the writ appeal stands dismissed. However, it is open to the authorities to consider the name of the petitioner in the future selection process. No costs.



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31.W.A(MD).No.1257 of 2022:

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(a).The candidate by name Selvakumar was involved in a criminal in Crime No.98 of 2017 for the offence under Sections 294(b), 324 and 506(ii) I.P.C on 08.06.2017. The said F.I.R was quashed by this Court in Crl.OP(MD).No.8117 of 2017 on 03.07.2017. Though the candidate has informed about the F.I.R in his application as well as during police verification, the respondents have rejected the candidate on the ground that he was involved in a criminal case. The said order was challenged by the petitioner in W.P(MD).No.14669 of 2018.

(b).This Court by an order dated 10.05.2019 had allowed the writ petition and issued a positive direction to the authorities to select and appoint the petitioner. This order is under challenge in the present writ appeal.

(c).According to the learned Additional Advocate General appearing for the appellants, any person who is having a criminal background has no legal right to seek for selection as police personnel. Hence, he prayed for allowing the writ appeal.

(d).The candidate was involved in a criminal case on 08.06.2017 which is after the date of submission of application. Therefore, there is no question of suppression of involvement in a criminal case in the application form. The F.I.R



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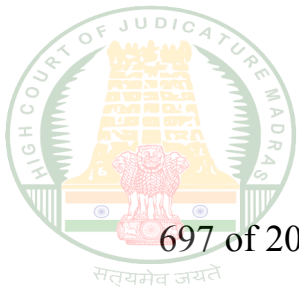
was quashed on 03.07.2017. Only thereafter, the police verification was conducted on 11.09.2017 in which the candidate has informed about his involvement and the quashing. Therefore, it is clear that the criminal case against the petitioner has been quashed prior to the date of police verification.

(e). In view of proposition of law summarized by us in Paragraph No.19 of this judgement, we are of the opinion that the petitioner deserves to be considered for selection and appointment in the present selection process itself.

(f). The respondents are directed to select and appoint the petitioner in the current selection process itself. Accordingly, the writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

32.WA(MD).No.59 of 2023:

(a).The candidate by name C.Madhanraj was involved in a criminal case in Crime No.91 of 2016 for the offence under Sections 147, 294(b), 324 and 506(ii) I.P.C on 04.06.2016. He was arrested on 24.11.2017. The candidate was acquitted on 24.08.2018 on the ground that the complainant had turned hostile and the charges have not been proved. The notification for recruitment was issued on 08.03.2019. His candidature has been rejected on the ground that he was involved in a criminal case and his character and antecedents are not satisfactory. Challenging the said order, the candidate has filed W.P(MD).No.



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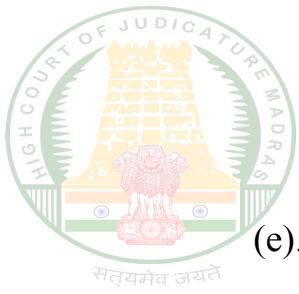
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(b).The writ court had dismissed the writ petition on the ground that the decision of the selection committee is final and the High Court cannot interfere in the said decision of the selection committee regarding the assessment of suitability, eligibility and verification of the antecedents. The said order is under challenge in the present writ appeal.

(c).According to the learned counsel appearing for the appellant, there is a scuffle in a public road near a night hotel. All the complainants and other witnesses have turned hostile and based upon which the petitioner has been acquitted. Therefore, the offence is trivial in nature and it should not have been found against the petitioner.

(d).The petitioner was involved in a criminal case on 04.06.2016 and he was acquitted on 24.08.2018 much prior to the notification for recruitment. It is not the case of the respondents that the candidate has suppressed the same either in the application form or during police verification. The candidate has been acquitted prior to the police verification on the ground of benefit of doubt and hostility of witnesses. Therefore, it is for the employer to consider the suitability of the candidate and the Court cannot issue any positive direction.

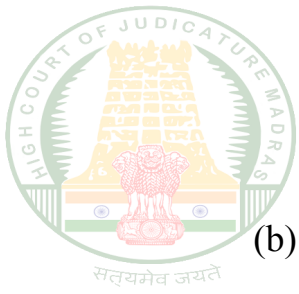


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(e). In view of the above said facts, the writ appeal is allowed and the order impugned in the writ petition is set aside and the matter is remitted back to the file of the concerned respondent for considering the candidature of the petitioner afresh in the light of the proposition of law laid down by this Court in Paragraph No.19 of the judgement. No costs.

33.W.P(MD).No.25130 of 2018:

(a). The petitioner by name N.Maruthu Pandi was involved in a criminal case in Crime No.321 of 2016 for the offence under Sections 294(b), 323, 506(i) I.P.C and Section 4 of Tamil Nadu Prohibition of Women Harassment Act, 1998 on 23.06.2016. The charge sheet in the said case in C.C.No.187 of 2017 was quashed by this Court due to compromise between the parties on 11.10.2017. The petitioner while submitting his application for recruitment on 16.02.2017, had suppressed his involvement in the criminal case. However, at the time of verification on 14.09.2017, he had informed about the criminal case. Therefore, his candidature was rejected by the respondents on the ground that on the date of police verification, a criminal case was pending and he had suppressed the same at the time of submitting his application. Challenging the same, the present writ petition has been filed.



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(b).According to the learned counsel appearing for the petitioner, the petitioner is the first generation graduate and due to inadvertence and unintentionally, the criminal case was not mentioned in the application form. However, he had disclosed the same during the police verification.

(c).It is an admitted fact that the petitioner had suppressed his involvement in the criminal case while submitting his application.

(d).Considering the fact that the criminal as against the petitioner has been quashed only after police verification, he would not be eligible for being considered in the current selection process. However, it is for the authority to consider the suitability of the candidate in the next selection process in the light of the law laid down by this Court in Paragraph No.19 of this judgement.

(e).With the above said observation, this writ petition stands dismissed.
No costs.

34.W.P(MD).No.14252 of 2021:

(a).The candidate by name K.Raja was involved in a criminal case in Crime No.545 of 2012 for the offence under Sections 294(b), 323 and 506(i) I.P.C on 30.12.2012. The petitioner was arrayed as 2nd accused and he had surrendered before the Court. The petitioner was acquitted on the ground of benefit of doubt on 07.10.2016. While submitting his application on



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16.04.2019, the petitioner had suppressed about the pendency of the criminal case. However, at the time of police verification on 23.04.2021, the petitioner had informed about the acquittal.

(b).Considering the involvement of the petitioner in the criminal case, the character and antecedents, the respondents have rejected the candidature on 26.07.2021. Challenging the same, the present writ petition has been filed.

(c).According to the learned counsel appearing for the petitioner, due to inadvertence, the petitioner has not mentioned about his involvement in a criminal case while submitting his application. However, on coming to know about this mistake, the petitioner has sent a representation by a registered post on 05.10.2020 informing about the criminal case. The said communication is prior to the police verification. Therefore, it cannot be construed that the petitioner has suppressed about his involvement in a criminal case. Hence, he prayed for allowing the writ petition.

(d).In the present case, admittedly the petitioner has suppressed about the pendency of the criminal case while submitting his application on 16.04.2019 probably under the impression that he had already been acquitted on 07.10.2016. Considering the fact that the petitioner has been acquitted only on benefit of doubt before police verification, the same would not confer any right



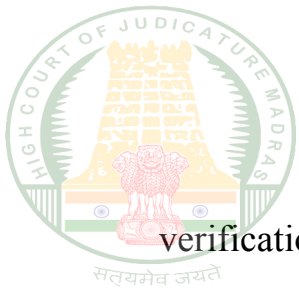
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upon the petitioner to claim appointment as a matter of right. It is for the employer to consider the suitability of the candidate based upon his conduct and antecedents only if the offences are trivial in nature.

(e).A perusal of the F.I.R indicates that the petitioner seems to have picked up quarrel with his neighbors with regard to construction of a compound wall. Therefore, it is clear that the offence could be categorized as trivial in nature and the suppression in the application form, would not take away the right of the petitioner to be considered for the post. Therefore, the order impugned in the writ petition is set aside and the matter is remitted back to the authorities to reconsider the same in the light of the law laid down by this Court in Paragraph No.19(d) and (e) of this judgement. The writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

35.W.P(MD).No.752 of 2022:

(a).The petitioner by name C.Raja Kannan was involved in a criminal case in Crime No.262 of 2011 for the offence under Sections 294(b), 324 and 506(i) I.P.C o 20.04.2011. The said criminal case was closed under Section 468(2) Cr.P.C. On 06.12.2014. The notification for recruitment was issued on 17.09.2020. The petitioner has not mentioned about this case at the time of his application on 26.09.2020 and the same was also suppressed during the police



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verification on 14.12.2021. Based upon the said ground, the candidature was rejected by the authorities. Challenging the same, the present writ petition has been filed.

(b).The learned counsel appearing for the writ petitioner had contended that the case was registered due to the wordy quarrel between the petitioner and his neighbour for which the petitioner has lodged a complaint in Crime No.263 of 2011 and the neighbour had also lodged a counter complaint in Crime No. 262 of 2011. The F.I.R was closed on 06.12.2014 under Section 468(2) of Cr.P.C on the ground of limitation. Therefore, the said suppression cannot be put against the writ petitioner. Hence, he prayed for allowing the writ petition.

(c). A perusal of the F.I.R indicates that there was a dispute between the petitioner and the complainant relating to love marriage of the complainant. The offences are trivial in nature and the Judicial Magistrate has refused to take cognizance citing the bar under Section 468(2) of Cr.P.C.

(d).In view of the above said facts, we are of the considered opinion that the criminal case as against the petitioner should only be considered to have been closed 6 years prior to the recruitment process. Therefore, the order impugned in the writ petition is set aside and the writ petition is allowed. The respondents are directed to consider the candidature in favour of the petitioner



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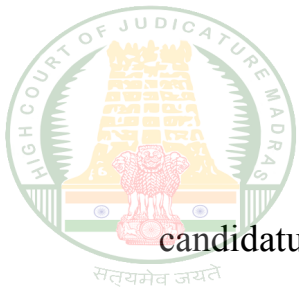
for the current selection itself. No costs. Consequently, connected

miscellaneous petition is closed.

36.W.P(MD).No.10996 of 2022:

(a). The petitioner by name K.Kamalakannan was involved in a criminal case in Crime No.298 of 2015 for the offence under Sections 147, 148, 294(b), 323, 324, 448, 506(ii) I.P.C and 3(1) of TNPPDL Act. The petitioner was arrayed as 4th accused in the said case and he had obtained anticipatory bail. The criminal case was quashed on the basis of a compromise by this Court in Crl.OP(MD).Nos.11273 and 11296 of 2015 on 19.06.2015. However, at the time of submitting his application on 19.10.2020, the petitioner had suppressed the same, but disclosed the same during police verification on 08.12.2021. Considering the character, antecedents and suppression, the respondents have rejected the candidature of the petitioner. Challenging the same, the present writ petition has been filed by the candidate.

(b). According to the learned counsel appearing for the petitioner, in view of quashing of the F.I.R, the petitioner has not mentioned about the criminal case at the time of filing of his application. It is not intentional, but only due to the above said circumstances. In view of quashing of the F.I.R, it should be treated that the petitioner was not at all involved in any criminal case and his



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candidature should be considered.

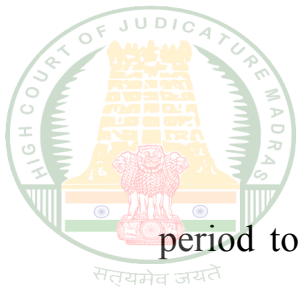
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(c). Considering the fact that the F.I.R. as against the petitioner has been quashed by this Court on 19.06.2015 which is 5 years prior to the recruitment process, this Court is of the view that the order impugned in the writ petition is not legally sustainable. The writ petition stands allowed and the respondents are directed to consider the candidature of the petitioner favorably in the current selection process itself. No costs. Consequently, connected miscellaneous petition is closed.

37.W.P(MD).No.11303 of 2022:

(a). The candidate by name A. Mareeswaran was involved in a criminal case in Crime No. 400 of 2015 for the offence under Sections 294(b), 324 and 506(ii) I.P.C and he was arrested. The candidate was acquitted on 03.03.2018 on the ground of benefit of doubt. The petitioner has informed about the involvement and acquittal both in the application and during police verification. However, the authorities have rejected the candidate on the ground that his character and antecedents are not satisfactory. The said order is under challenge in the present writ petition.

(b). A perusal of the offence would show that they are trivial in nature and the petitioner has been acquitted on the ground of benefit of doubt 2 years



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period to the recruitment process. However, 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 and eligibility of the candidate.

(c). In view of Explanation No.1 to Special Rule for Tamil Nadu Police Subordinate Service Rules 14(b), even if a person is acquitted on benefit of doubt or the complainant turned hostile, it should be treated as a person involved in a criminal case.

(d). However, considering the fact that the offences involved are trivial in nature and the petitioner has been acquitted 2 years prior to the recruitment process, the order impugned in the writ petition is set aside and the writ petition stands allowed. The matter is remitted back to the 3rd respondent for fresh consideration in the light of the law laid down by this Court in Paragraph No.19 of this judgement. No costs. Consequently, connected miscellaneous petition is closed.

38.W.P(MD).No.11682 of 2022:

(a). The petitioner by name G.Kani Murugan was arrayed as 5th accused in Crime No.33 of 2018 for the offence under Sections 147, 148, 324, 342 I.P.C read with Section 4 of Tamil Nadu Prohibition of Women Harassment Act, 2002 on 30.08.2018. The petitioner was also arrayed as 5th accused in another



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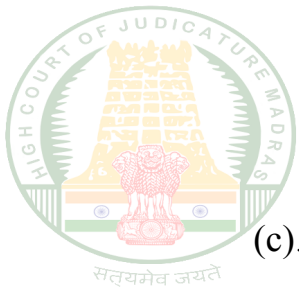
case in Crime No.94 of 2020 for the offence under Section 147, 294(b), 323,

506(ii) I.P.C read with Section 4 of Tamil Nadu Prohibition of Women

Harassment Act, 2002 on 31.07.2020. At the time of filing of the charge sheet, the name of the petitioner was removed in Crime No.33 of 2018 on 29.07.2019.

The petitioner's name was also removed in Crime No.94 of 2020 at the time of filing the charge sheet on 06.10.2020. The recruitment process was started on 17.09.2020. The petitioner has submitted his application on 15.10.2020 in which the involvement of the petitioner in both the criminal cases has been suppressed. The petitioner has also suppressed the criminal cases during police verification conducted on 08.12.2021. Based on the above said facts and considering the character and antecedents of the petitioner, his candidature has been rejected. The said order is under challenge in the present writ petition.

(b).The learned counsel appearing for the petitioner had submitted that since the petitioner's name has been deleted at the time of filing of the charge sheet, he has not mentioned about his involvement in a criminal case at the time of submitting his application. Therefore, it is only due to an inadvertent mistake and the same cannot be put against the petitioner from seeking public employment. Hence, he prayed for setting aside the order impugned in the writ petition.



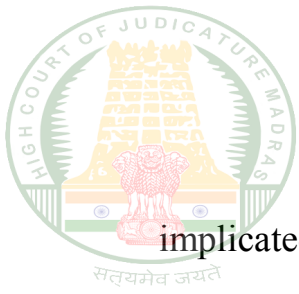
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(c).A perusal of the alteration report filed by the police authorities on 30.08.2018 in Crime No.33 of 2018 before the Judicial Magistrate, Mudhukulathur would reveal that the defacto complainant had falsely implicated the writ petitioner and they sought to delete the name of the writ petitioner from the said crime number.

(d).A perusal of the alteration report dated 31.07.2020 in Crime No.94 of 2020 reveals that the petitioner's name has been falsely implicated in the said case and they sought for deletion of the name of the petitioner. Thereafter, the final report has been filed on 29.07.2019 in Crime 33 of 2018 and on 06.10.2020 in Crime No.94 of 2020 without mentioning the name of the petitioner.

(e).It is true that the petitioner has not disclosed about the inclusion of his name in both the crime numbers while submitting his application and at the time of police verification. The contention of the learned counsel for the petitioner is that since the petitioner's name has been deleted by filing an alteration report by the police authority on the ground that his name was falsely implicated, he was under the impression that he was not involved in a criminal case.

(f). Considering the fact that the petitioner's name has been deleted by the police authorities with a specific averment that the petitioner has been falsely



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implicated, this Court is of the opinion that the petitioner was not at all involved in any criminal case. Therefore, the alleged suppression at the time of application and police verification cannot be put against the petitioner from seeking public employment. Therefore, the order impugned in the writ petition is set aside and the respondents are directed to consider the case of the petitioner favorably in the current selection process itself. The writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

39.W.P(MD).No.11834 of 2022:

(a).The petitioner by name S.Ramya was involved in a criminal case in Crime No.135 of 2019 on 23.08.2019 for the alleged offence under Sections 294(b), 427 and 323 I.P.C. An alteration report was filed by the police authority on 23.02.2022 deleting the name of the petitioner after detailed enquiry. The recruitment process was started in September 2020 and the petitioner has suppressed about her involvement in the application form as well as at the time of police verification. Hence, the candidature was rejected by the respondents. Challenging the same, the present writ petition has been filed.

(b).A perusal of the F.I.R indicates that there was a quarrel between the neighbours regarding laying of stone for demarcating the boundary. The F.I.R



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was registered as against the petitioner and her mother. However, the name of

the petitioner was deleted on 23.08.2019 prior to the recruitment process.

Therefore, we are of the considered opinion that the alleged offences are trivial in nature and the suppression cannot be put against the petitioner. The order impugned in the writ petition is set aside and the writ petition stands allowed.

The respondents are directed to consider the candidature of the petitioner favorably in the current selection process itself. No costs.

40.W.P(MD).No.12459 of 2022:

(a).The candidate by name T.Vijayakumar was involved in a criminal case in Crime No.164 of 2017 for the offence under Sections 294, 323, 324 and 506(ii) I.P.C and he was arrested. However, he was acquitted on 24.07.2019 on the ground of hostility of witnesses. On 02.04.2019 while submitting the application form, the petitioner has suppressed about the pendency of the criminal case. However, at the time of police verification, he has disclosed the same. Based upon the above said facts, the respondents have rejected the candidature of the petitioner. Challenging the same, the present writ petition has been filed.

(b).The learned counsel appearing for the petitioner had contended that while the petitioner has been acquitted on 24.07.2019, the same should not have



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been put against the petitioner from seeking public employment.

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(c). Considering the fact that the petitioner has not been honorably acquitted, but has been acquitted only on the ground of hostility of witnesses and he had suppressed the same at the time of filing of the application, we are not inclined to issue any positive direction to the respondents to consider the candidature of the petitioner. The petitioner has been acquitted on the ground of hostility of witnesses before police verification. Therefore, the petitioner cannot claim appointment as a matter of right. It is for the authority to consider the suitability and eligibility based upon his conduct and antecedents, if the offence are trivial in nature.

(d). Therefore, the order impugned in the writ petition is set aside and the matter is remitted back to the 3rd respondent for considering the request of the petitioner afresh in the light of the proposition of law laid down by this Court in Paragraph No.19 of this judgement.

(e). The writ petition stands allowed to the extent as stated above. No costs. Consequently, connected miscellaneous petitions are closed.

41.W.P(MD).No.12985 of 2022:

(a). The petitioner by name M.Santhosh was involved in a criminal case in Crime No.294 of 2016 for the offence under Sections 147, 148, 294(b),



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324 and 506(ii) I.P.C on 19.06.2018. The petitioner was arrayed as 4th accused

and he was arrested. However, the petitioner was acquitted on the ground of benefit of doubt on 13.12.2021. The petitioner had suppressed his involvement both in the application as well as during police verification. On the said ground, his candidature was rejected by the respondents. Challenging the same, the present writ petition has been filed.

(b).According to the learned counsel appearing for the petitioner, the petitioner having been acquitted on 13.12.2021, the respondents ought not to have rejected the candidature of the petitioner on 16.03.2022. Having been acquitted in the criminal case, he is eligible to be appointed as Grade-II Police Constable as per Special Rules.

(c).Considering the fact that the petitioner has suppressed his involvement in the criminal case both in his application form as well as at the time of police verification and the petitioner has been acquitted only on the ground of benefit of doubt, we are not inclined to issue any positive direction to the respondents to select and appoint the petitioner. However, considering the fact that the petitioner has been acquitted on the ground of benefit of doubt 5 days prior to the police verification and the offence arises out of offering worship in a temple, we are inclined to set aside the order impugned in the writ petition.



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Accordingly, the order impugned in the writ petition is set aside and the 3rd respondent is directed to consider the issue afresh in the light of the proposition of law laid down by this Court in Paragraph No.19 of this judgement.

(d). This writ petition stands allowed to the extent as stated above. No costs. Consequently, connected miscellaneous petition is closed.

42.W.P(MD).No.13140 of 2022:

(a).The petitioner by name S.Chinnasamy was involved in a criminal case in Crime No.31 of 2015 for the offence under Sections 147, 341, 323 and 506(i) I.P.C on 11.03.2015.The petitioner was acquitted on 17.12.2019 on the ground of hostility of witnesses. The petitioner had informed about his involvement in the criminal case both in the application as well as during police verification. However, the authorities have rejected the candidature on the ground that his character and antecedents are not satisfactory. Challenging the same, the present writ petition has been filed.

(b).The learned counsel appearing for the petitioner had contended that having disclosed the pendency of the criminal case both in the application form as well as in the police verification, the respondents ought not to have rejected his candidature. In fact, the petitioner has been acquitted on the ground that the prosecution has failed to prove the guilt of the accused person. Hence, he



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prayed for allowing the writ petition.

WEB COPY (c). A perusal of the F.I.R indicates that the petitioner has been arrayed as 4th accused. The statement in the F.I.R by the defacto complainant reveals that there was a dispute between the petitioner group and the complainant group relating for running a Thaaيمان Youth Welfare Madram and the incident has taken place at the time of drawing water from the public water tank. The petitioner was also selected provisionally for the post of Grade-II Police Constable in the year 2017-2018 and in the year 2019 also. In those years citing pendency of the criminal case, the candidature of the petitioner was rejected.

(d). Considering the fact that the petitioner has already been acquitted on the ground of benefit of doubt and the offences are trivial in nature which arise out of dispute among the youngsters in running a Narpanimandram, this Court is of the view that the case of the petitioner cannot be rejected for the 3rd occasion, especially when the criminal case is disclosed both in the application form as well as in the police verification.

(e). In view of the above said facts, the order impugned in the writ petition is set aside and the 3rd respondent is directed to consider the case of the petitioner favorably in the current selection process itself.

(d). This writ petition stands allowed to the extent as stated above. No



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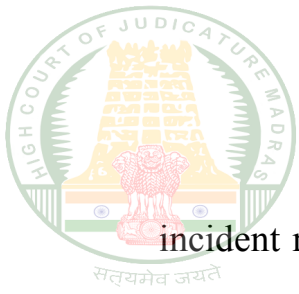
costs. Consequently, connected miscellaneous petition is closed.

WEB COPY 43.W.P(MD).No.15022 of 2022:

(a).The petitioner namely J.Thirumeni was involved in a criminal case in Crime No.228 of 2011 for the offence under Sections 341, 294(b), 323, 324 and 506(ii) I.P.C on 03.08.2011. The petitioner was acquitted on the ground of hostility of witnesses on 12.07.2016. The petitioner has informed his involvement in the criminal case both in the application form as well as during police verification. However, his candidature was rejected on that ground that his character and antecedents are not satisfactory. Challenging the same, the present writ petition has been filed.

(b).The learned counsel appearing for the petitioner had contended that the writ petitioner having been acquitted 3 years prior to the selection process, ought not to have been again rejected in the 3rd occasion. He had further contended that the nature of alleged offence would disclose that it is a petty case and hence, the acquittal on the ground of benefit of doubt should not be put against the petitioner from seeking public employment. Hence, he prayed for allowing the writ petition.

(c).A perusal of the order passed by the Judicial Magistrate, Alangudi in C.C.No.24 of 2012 reveals that the alleged offences have arisen out of an



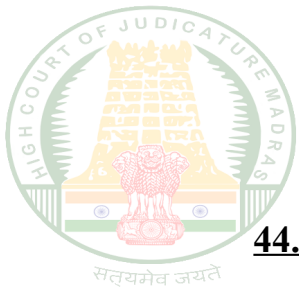
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incident relating to Vilakkupoojai conducted in a temple. The complainant and the petitioner herein belong to the same village. The complainant had turned hostile and the petitioner has been acquitted. A perusal of the impugned order indicates that the candidature of the petitioner was rejected on the same ground in the selection of the year 2017. Again for the same ground, he has been rejected in the current selection process also.

(d).Considering the fact that the dispute arises out of conducting Vilakku Pooja in a temple and the nature of offences are trivial in nature, this Court is of the view that it would not be fair on the part of the authority to reject the candidature of the petitioner for the second occasion on the ground of involvement in a criminal case. This Court is also of the considered opinion that the petitioner has properly disclosed about his involvement in the criminal case both in the application form as well as during police verification.

(e).In view of the above said facts, the order impugned in the writ petition is set aside and the matter is remitted back to the file of the 8th respondent to consider the matter afresh and pass orders in the light of the proposition of law laid down by this Court in Paragraph No.19 of this judgement.

(f). The writ petition stands allowed to the extent as stated above. No costs. Consequently, connected miscellaneous petitions are closed.



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44.W.P(MD).No.17969 of 2022:

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(a).The writ petitioner namely G.Prabakaran was involved in a criminal case in Crime No.262 of 2018 for the offence under Sections 147, 148, 448, 427, 294(b), 323 and 506(ii) I.P.C on 09.09.2018. The petitioner had filed Crl.OP(MD).No.1040 of 2022 before this Court to delete his name from the F.I.R. This Court was pleased to quash the F.I.R as against the petitioner on 27.01.2022. At the time of filing of application on 30.09.2020, the petitioner had suppressed about the criminal case, but at the time of police verification, he has disclosed the same on 04.12.2021. Based on the above said facts, the authorities had rejected the candidature of the petitioner. The said order is under challenge in the present writ petition.

(b).According to the learned counsel appearing for the petitioner, when the F.I.R as against the petitioner has been quashed by this Court, the same should be held in favour of the petitioner and he should be selected and appointed in the present selection process itself. The suppression would not be in any way affect the eligibility of the petitioner to seek public employment in view of quashing of the F.I.R.

(c).The verification of the records indicate that the petitioner has suppressed about his involvement in the criminal case at the time of filing of his



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application on 30.09.2020. He had informed the authorities about his involvement in a criminal case only during police verification on 04.12.2021.

The F.I.R as against the petitioner was quashed only on 27.01.2022 ie, after the date of police verification. Therefore, we are of the opinion that since the criminal case was pending as against the petitioner on the date of police verification, he would not be entitled to seek appointment in the current selection process.

(c). In view of the above said facts, we are not inclined to issue any positive direction to the authorities to consider the case of the petitioner for selection and appointment. However, the petitioner shall be entitled to be considered in the next selection process.

(d). With the above said observation, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

45.W.P(MD).No.19617 of 2022

(a). The writ petitioner namely Dhanabal was involved in a criminal case in Crime No.1256 of 2020 for the offence under Section 5 read with Section 7(3) of the Lotteries Regulation Act, 1998. He was arrested and let on bail. The petitioner was acquitted on 20.10.2021 on the ground of benefit of doubt. The petitioner had suppressed his involvement in the criminal case while



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submitting his application on 17.10.2020. However, only during the police verification, he had disclosed. Based upon the said facts, his candidature was rejected by the respondents. Challenging the same, the present writ petition has been filed.

(b).According to the learned counsel appearing for the petitioner, the petitioner has been acquitted in STC.No.279 of 2021 by the Judicial Magistrate, Pattukkottai on 20.10.2021. Without considering the same, the present impugned order has been passed on 16.03.2022. When the petitioner has been acquitted, there is no legal impediment for the authority to appoint the petitioner. Hence, he prayed for allowing the writ petition.

(c).A perusal of the charges as against the petitioner reveals that he was charge sheeted for the offence of selling lottery tickets online which are banned by the State of Tamil Nadu under Lotteries Regulation Act, 1998. The petitioner has been acquitted on the ground of benefit of doubt. Considering the fact that the petitioner has suppressed his involvement in the criminal case at the time of filing his application and the nature of the allegation made against the petitioner that he had sold lottery tickets online which are banned by the State of Tamil Nadu, we are not inclined to issue any positive direction to the authorities to consider the candidature of the petitioner for appointment. The offence that



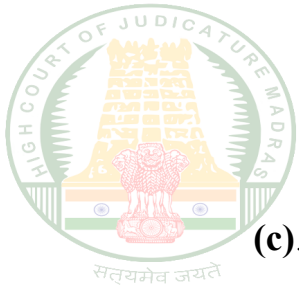
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were alleged against the petitioner can never be considered to be trivial in nature. Therefore, we are not inclined to remit the matter to the authorities for fresh consideration. The authorities have rightly rejected the candidature of the petitioner on the ground of his involvement in the criminal case which is not trivial in nature, especially when the same has been suppressed at the time of application. There are no merit in the writ petition. The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

F.CONCLUSION:

46.(a). The Director General of Police, Tamil Nadu Police Department, Chennai is directed to issue necessary revised guidelines to the appointing authority in tune with the law laid down in Paragraph No.19 of the judgement.

(b). W.A(MD).Nos. 499 of 2021, 383 of 2022, 405 of 2022, and W.P(MD).Nos.752 of 2022, 10996 of 2022, 11682 of 2022 and 11834 of 2022 are allowed and a direction is issued to the appointing authority to select and appoint the respective candidates in the selection year for which they have applied, subject to the satisfaction of the conduct and antecedents of the candidates. No costs.



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(c). W.A(MD).Nos. 938 of 2020, 939 of 2020, 432 of 2022, 59 of 2023

and WP(MD).Nos. 14252 of 2021, 11303 of 2022, 12459 of 2022, 12985 of 2022, 13140 of 2022 and 15022 of 2022 are allowed and remitted to the appointing authority to reconsider the candidature of the concerned candidate afresh in the light of the law laid down in Paragraph No.19 of the judgement.

No costs.

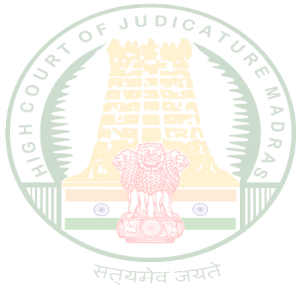
(d). W.A(MD).Nos.396 of 2022, 422 of 2022, 474 of 2022, 449 of 2022, 1257 of 2022 and W.P(MD).Nos.25130 of 2018, 17969 of 2022 and 19617 of 2022 are dismissed with the observations. No costs.

(D.K.K.J.,)

(R.V.J.,)

05.06.2023

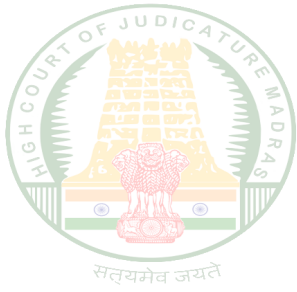
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W.A. (MD) No. 938 of 2020 etc., batch cases

WEB COPY To

1. The Director General of Police,
Tamil Nadu Police Department,
Mylapore, Chennai 600 004.
2. The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore, Chennai.
3. The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.



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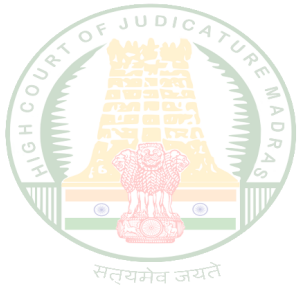
W.A. (MD) No. 938 of 2020 etc., batch cases

**D.KRISHNAKUMAR, J.
AND
R.VIJAYAKUMAR, J.**

msa

Pre-delivery Common Judgment made in
W.A(MD).Nos.938 & 939 of 2020, 499 of 2021,
383, 396, 405, 422, 432, 474, 449 and 1257 of
2022 and 59 of 2023
and W.P(MD).Nos. 25130 of 2018, 14252 of
2021, 752, 10996, 11303, 11682 11834, 12459,
12985, 13140, 15022, 17969 and 19617 of 2022
and
CMP(MD).Nos.5172 & 5173 of 2020, 2133 &
2134 of 2021, 3890 of 2022, 4010 of 2022, 4108
of 2022, 4200 of 2022 and 9777 of 2022
and
WMP.No.11187 & 11189 of 2021, 594 & 10266
of 2022, 7927 of 2022, 8072 of 2022, 8263,
8266 & 8268 of 2022, 8835 & 8836 of 2022,
9217 of 2022, 9336 of 2022, 10747 & 10748 of
2022, 13121 of 2022 and 14329 of 2022

05.06.2023



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