



W.P(MD)No.7225 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.04.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.7225 of 2023

and

W.M.P.(MD)Nos.6186 and 6819 of 2023

K.Maresswaran

... Petitioner

Vs.

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

2.Tamil Nadu Uniformed Services Recruitment Board,
Rep. by its Member Secretary,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore, Chennai – 600 008.

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

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 3rd respondent in connection with the impugned order of rejection passed by him vide his proceedings in



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C.No.A2/(1)/15586/2017 dated 09.03.2023 and quash the same as illegal, arbitrary and consequently direct the respondents to appoint the petitioner in the post of Grade - II Police Constable (TSP) for the year 2020 based on the provisional selection list published by the 2nd respondent in C.No.R2/5757/2020 dated 25.11.2021 within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.Veerakathiravan,
Addl. Advocate General,
Assisted by Mr.K.Balasubramani,
Spl. Government Pleader.

ORDER

Heard the learned counsel for the petitioner and the learned Additional Advocate General assisted by the learned Special Government Pleader for the respondents.

2.The petitioner is an aspirant for the post of Police Constable Grade II. He took part in the recruitment process held for the year 2020. Even though the petitioner was successful in the written test as well as in



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the physical test, the Superintendent of Police, Virudhunagar District vide proceedings dated 09.03.2023 had disqualified the petitioner in view of his involvement in two criminal cases. Challenging the same, the present writ petition has been filed.

3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He submitted that while one criminal case registered against the petitioner was closed as undetected, in the other criminal case, the petitioner obtained honourable acquittal. He, therefore, submitted that the Explanation 1 to Rule 14(b)(ii) of TNSPSCC will not come in the way.

4.I am not persuaded by the submissions of the learned counsel for the petitioner. As rightly pointed out by the learned Additional Advocate General, it is not enough that the petitioner has secured an acquittal. If the acquittal is on account of the complainant turning hostile, the petitioner would still be treated as a person involved in a criminal case. I went through the contents of judgment of acquittal rendered in C.C.No.



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212 of 2014 on the file of the learned Judicial Magistrate No.II, Virudhunagar. It is obvious from a reading of the judgment that all the prosecution witnesses turned hostile. This aspect of the matter is no longer res integra. In case after case, the position has been reiterated. The Hon'ble Supreme Court in a recent decision reported in **2022 SCC Online SC 1300 (Satish Chandra Yadav Vs. Union of India and Others)** had held as follows:-

“b) Even in a case where the employee has made declaration truthfully and correctly of a concluded criminal case, the employer still has the right to consider the antecedents, and cannot be compelled to appoint the candidate. The acquittal in a criminal case would not automatically entitle a candidate for appointment to the post. It would be still open to the employer to consider the antecedents and examine whether the candidate concerned is suitable and fit for appointment to the post.”

5.As per the statutory rules, if the acquittal was on account of witnesses turning hostile, the employer can still treat the same as adverse to the petitioner by holding that he involved in criminal case. The



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position is too well settled proposition. No interference is called for.

Hence, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

21.04.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:

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G.R.SWAMINATHAN, J.

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