



WRIT APPEAL(MD)No.761 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date of Reservation	18.07.2023
Date of Judgment	31.07.2023

CORAM

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
AND
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**WRIT APPEAL(MD)No.761 of 2022
and
CMP(MD)No.6361 of 2022**

R.Sujin : Appellant/Petitioner
Vs.

The Superintendent of Police,
District Police Office,
Nagercoil,
Kanyakumari District. : Respondent/Respondent

Prayer:

Writ Appeal has been filed under Clause 15 of Letters Patent to set aside the order, dated 04.03.2022 made in W.P.(MD)No.3987 of 2022 on the file of this Court.

For Appellant : Mrs.P.Jessi Jeeva Priya



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For Respondent : Mr.Veerakathiravan
Additional Advocate General
Assisted by Mr.D.Sakthikumar
Additional Government Pleader

J U D G M E N T

D.BHARATHA CHAKRAVARTHY, J.

This Writ Appeal is directed against the order of the learned Single Judge of this Court, dated 04.03.2022 in W.P.(MD)No.3987 of 2022, in and by which the writ petition filed by the petitioner was dismissed. In the writ petition, the petitioner challenged the order dated 04.01.2022 on the file of the respondent and consequently to direct the respondent to appoint the petitioner as Grade-II Police Constable.

2. In the said impugned order, the petitioner's case was screened to decide about his suitability to be appointed as Grade-II Constable pursuant to he being successful in the written and physical tests. The respondent considered the involvement of the appellant in two criminal cases in Crime No.186 of 2018 for the offences under Sections 341,



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294(b), 323 and 506(ii) of IPC and Crime No.76 of 2019 for the offences under Sections 341, 294(b), 323, 324 and 506(ii) of IPC and considering the fact that the said cases were quashed on compromise by this Court under Section 482 of Cr.P.C., ultimately found that the appellant is not suitable for the said post.

3. It was the contention of the petitioner before the learned Single Judge that the criminal cases are petty in nature and that when the High Court has quashed the matters on compromise, it can be ascertained that they are predominantly private in nature. Therefore, when there was no conviction and when not even final reports were filed and when they were quashed on compromise, the same cannot be a bar with for selection.

4. The learned Single Judge considered the said submission and the decisions cited on behalf of the appellant and ultimately, placing reliance upon the Judgments of the Hon'ble Supreme Court of India in (i) ***Union Territory, Chandigarh Vs. Pradeep Kumar [(2018) 1 SCC 797]***



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and (ii) ***Commissioner of Police, New Delhi and Another Vs. Mehar***

Singh [(2013) 7 SCC 685], held that it is for the respondent to assess the suitability of the petitioner in respect of the uniformed service and there cannot be any compromise in the matter of verification of antecedents and conduct and therefore, when the authorities have applied their mind and rejected the candidature of the petitioner, this Court cannot interfere in the writ petition. Feeling aggrieved, the present appeal is preferred.

5. Heard Mrs.P.Jessi Jeeva Priya, learned counsel appearing on behalf of the appellant and Mr.Veerakathiravan, learned Additional Advocate General assisted by Mr.D.Sakthikumar, learned Additional Government Pleader appearing on behalf of the respondent.

6. Mrs.P.Jessi Jeeva Priya, learned counsel for the appellant, by filing both the First Information Reports, would submit that the petitioner was a Kabaddi player and in the heat of the moment after the Kabaddi match when there was an altercation between the two groups, the petitioner was also arrayed as an accused. Thereafter, when the parties



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have decided to compromise the issue and the complainant having accepted that the First Information Reports be quashed and when this Court has quashed the First Information Reports, the same can never be put against the appellant. In any event, when the petitioner has indulged in the misdemeanor in the prime of the youth, he cannot be permanently doomed based on the said involvements and he deserves an opportunity in life. The learned counsel for the appellant also relied upon the Judgment of the Division Bench of this Court in ***Director General of Police and Others Vs. K.Indhukumar and batch of cases [W.A. (MD)Nos.938 of 2020 and batch]*** to content that the matter can be considered favorably and in paragraph No.8, they have held that the quashing of the F.I.R/charge sheet should be treated on par with the honourable acquittal and discharge as to mistake of fact and therefore, the appellant should be held to be not at all involved in the criminal cases and she would submit that the appeal deserves to be allowed.

7. Per contra, Mr.Veerakathiravan, the learned Additional Advocate General taking this Court through the First Information Reports, would



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submit that on reading of the First Information Reports, it cannot be said that it was act committed in the spur of the moment. Secondly, when the competent authority has gone through the facts and circumstances of the case, especially, when thousands and thousands of candidates, who have unblemished record are available and when the offences in the instant case include the serious offence under Section 324 of IPC , the finding of the respondent that the appellant is not suitable need not be interfered with. He would further submit that the issue has already been settled by the Judgment of the Hon'ble Supreme Court of India, which are relied upon by the learned Single Judge. The petitioner's future is not doomed as different consideration would apply in respect of other public employment in other departments. But when it comes to uniformed force, the consideration of antecedents and conduct assumes greater significance and therefore, his candidature has rightly been rejected by the respondent.

8. We have considered the rival submissions made on either side and perused the material records of the case.

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9. It can be seen that the appellant was involved in Crime No.186 of 2018 and he was named as the first accused in the said case. The First Information Report is recorded on the statement of an inpatient by name Karthik. He has stated that on account of previous enmity, the appellant and others waylaid him, abused him with filthy language and hit him with hands and cane, causing injuries in his shoulder, lips, right leg knee and on his back. A perusal of the First Information Report in Crime No.76 of 2019, it can be seen that the statement is recorded from the injured/defacto complainant admitted in the hospital, who had stated that there has been dispute relating to their family and the neighbors, ie., the appellant's family. In that background, when the temple festival was going on at about 11.00 p.m. on 30.04.2019, they waylaid the defacto complainant's brother and hit him with hands and attacked him with the bike key on the head above the left ear creating lacerated wound and upon the defacto complainant attempting to stop them, the defacto complainant was punched on his face and on the back of his head. They also chased with canes in their hand.



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10. In this scenario, the appellant seems to have entered into a compromise and the cases were quashed on compromise by orders dated 16.08.2019 in CrI.O.P.(MD)No.11437 of 2019 and dated 22.07.2021 in CrI.O.P.(MD)No.1750 of 2021. Needless to state that in both cases compromise between the parties was recorded and were quashed.

11. The law on the point has been well settled by the Hon'ble Supreme Court of India in ***Commissioner of Police, New Delhi and Another Vs. Mehar Singh*** (cited supra). It is not conviction in a criminal cases which is a bar, but the consideration while it comes to appointment to police force is concerned is of impeccable character and integrity and it has been expressly held that the person having criminal antecedents will not fit in this category. It is useful to extract paragraph No.35 of the said judgment which reads as follows:

“...35. The police force is a disciplined force. It shoulders the great responsibility of maintaining law and order and public order in the society. People repose great faith and confidence in it. It must be worthy of that confidence. A candidate wishing to join the police force must



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be a person of utmost rectitude. He must have impeccable character and integrity. A person having criminal antecedents will not fit in this category. Even if he is acquitted or discharged in the criminal case, that acquittal or discharge order will have to be examined to see whether he has been completely exonerated in the case because even a possibility of his taking to the life of crimes poses a threat to the discipline of the police force. The Standing Order, therefore, has entrusted the task of taking decisions in these matters to the Screening Committee. The decision of the Screening Committee must be taken as final unless it is mala fide. In recent times, the image of the police force is tarnished. Instances of police personnel behaving in a wayward manner by misusing power are in public domain and are a matter of concern. The reputation of the police force has taken a beating. In such a situation, we would not like to dilute the importance and efficacy of a mechanism like the Screening Committee created by the Delhi Police to ensure that persons who are likely to erode its credibility do not enter the police force. At the same time, the Screening Committee must be alive to the importance of the trust reposed in it and must treat all candidates with an even hand.”



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12. The learned counsel for the appellant relied upon the Division Bench of this Court in ***Director General of Police and Others cited (supra)***, in paragraph No.8, the Division Bench of this Court has also classified the various type of involvement etc., and held in paragraph No. 9 as follows:

“...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.”

13. As a matter of fact, the Hon'ble Supreme Court of India itself has categorically held in Paragraph No.33 of ***Mehar Singh (cited supra)*** as follows:-

“...33. So far as respondent Mehar Singh is concerned, his case appears to have been compromised. It was urged that acquittal recorded pursuant to a



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compromise should not be treated as a disqualification because that will frustrate the purpose of the Legal Services Authorities Act, 1987. We see no merit in this submission. Compromises or settlements have to be encouraged to bring about peaceful and amiable atmosphere in the society by according a quietus to disputes. They have to be encouraged also to reduce arrears of cases and save the litigants from the agony of pending litigation. But these considerations cannot be brought in here. In order to maintain integrity and high standard of police force, the Screening Committee may decline to take cognizance of a compromise, if it appears to it to be dubious. The Screening Committee cannot be faulted for that.”

14. Thus it can be seen that the only consideration as far as the appointment to the post is concerned is about the very involvement itself, whether would render a doubt as to the impeccable character and integrity of a person so as to make him a part of the police force tasked with responsibility of maintaining law and order. We have already extracted the nature of offences and the manner in which, the appellant was alleged to have been involved in those criminal cases. It cannot be



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said to be trivial or due to sudden and grave provocation. Further, it can be seen from the order impugned in the writ petition that there has been due application of mind on the part of the respondent. In view thereof, no exception whatsoever can be taken to the finding of the learned Single Judge of this Court that this Court cannot interfere in the decision of the respondent finding the appellant not suitable for the post.

15. In view thereof, this Writ Appeal stands dismissed. However, there shall be no orders as to costs. Consequently, connected miscellaneous petition is closed.

(S.S.S.R.,J.) & (D.B.C.,J)

31.07.2023

NCC : Yes / No

Index: Yes/No

Index: Yes/No

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To:

The Superintendent of Police,
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AND
D.BHARATHA CHAKRAVARTHY, J.

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Pre-Delivery Judgement made in
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31.07.2023