



W.P.(MD).No.1134 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 01.02.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.1134 of 2019

A.Karthick

... Petitioner

Vs.

1.The Senior Commandant,
CISF, GP.Head Quarters,
Hyderabad.

2.The Commandant,
CISF, RTC,
Bhilai.

3.The Inspector General/TS,
CISF, TS Head Quarters, NISA,
Hyderabad – 500 078.

4.The DIG/Principal,
CISF, RTC, Bhilai,
Post-Uttai,
Dist-Durg,
Chandigarh – 491 107.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the second respondent in his proceedings dated 18.12.2018 and quash the same and direct the respondents to permit the petitioner to join in the post of Constable/Driver in CISF as per the appointment order dated 13.11.2015 issued by the first respondent with all consequential benefits.

For Petitioner : Mr.V.Pannerselvam

For Respondents : Mr.C.Nandagopal,
Central Government Standing Counsel.

ORDER

This Writ Petition is filed for Writ of Certiorarified Mandamus to quash the order dated 18.12.2018 and with a consequential direction to permit the petitioner to join the post based on the appointment order dated 13.11.2015. The impugned order declined the petitioner to join the post of CISF service.



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WEB COP 2. The petitioner is fully qualified to be appointed in CISF post as Constable Driver. The respondents have issued a notification in July, 2014, the petitioner submitted an application on 16.07.2014, attended the Physical Examination on 31.12.2014 and had participated in the Written Examination on 01.01.2015. The petitioner being a successful candidate was directed to appear for Medical Examination on 23.04.2015. The contention of the petitioner is that one of his younger brothers died on 23.02.2009 and his father died on 12.09.2010 and his mother died on 27.11.2013. The petitioner and his sister alone were residing in their native village. The petitioner took initiative to get his sister married through proper wedlock, but his sister had chosen to marry on her own choice and left the house. There was a tussle between the petitioner and his sister, which has culminated in registering FIR in Crime No.608 of 2014 on the file of Vadipatti Police Station for the alleged offences under Section 427, 506(i) of IPC. The allegation against the petitioner is that he has damaged his sister matrimonial house by breaking the tiles of the house. The petitioner's sister preferred another complaint on 26.03.2015 in Crime No.150 of 2015 for the alleged offences under Section 147, 506(i) and Section 4 of Tamil Nadu Prevention of Women Harassment Act. When the petitioner applied



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for the post, there was no FIR. In the selection process, the petitioner was successful. During Medical Examination, the petitioner had an opportunity to reveal the FIR, however, the petitioner did not reveal the same. The petitioner was appointed on 13.11.2015 and was directed to report duty on 05.12.2015 to attend the basic training scheduled to be commenced with effect from 07.12.2015. When the petitioner reported for duty on 05.12.2015, the respondents instructed him to get character antecedents certificate from the concerned Police Station. The petitioner immediately approached the respondents explaining the family situation and the stage of the complaint and the respondents have instructed the petitioner to close the cases and report the same before the authorities. The petitioner has immediately approached the Magistrate Court and faced the trial for the first case in C.C.No.668 of 2017. The petitioner was advised to accept the crime and pay the fine. The petitioner has accepted the crime before the Magistrate Court and the Magistrate Court vide order dated 13.07.2017 has imposed Rs.1000 as fine and one day Court imprisonment. As far as the second FIR is concerned, the petitioner has approached this Court and obtained an interim order vide order dated 28.04.2016 in CrI.O.P.(MD)No.7246 of 2016, wherein, this Court has observed that on a reading of FIR, prima facie, it appears to be a false cause lodged by



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the sister against the petitioner in order to spoil his chances of joining the CSIF and for this reason this Court had granted interim stay. Thereafter the petitioner took earnest effort to get a final order in the said CrI.O.P and this Court vide order dated 04.11.2016 quashed the FIR. Moreover, the Government Advocate has also reported before the Court and after investigation the case was closed as mistake of fact on 23.06.2016. Thereafter the petitioner had approached the respondents with a result of the criminal cases. However, the respondents have passed the impugned order dated 18.12.2018, wherein it is stated that since the petitioner involved in the criminal case in the past, the petitioner's appointment is cancelled on the basis of the recommendation of the standing Screening Committee for examination of the cases of the candidates. Aggrieved over, the present Writ Petition is filed.

3. The respondents have filed a counter stating that the petitioner concealed the fact of criminal case at the relevant point of time. The petitioner had a chance to report the same prior to Medical Examination and the information regarding involvement in the criminal case came to the knowledge of the authority when the petitioner submitted the antecedent certificate on 23.08.2016. Since the petitioner has not disclosed the information regarding the



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involvement in the criminal case during the recruitment process, the petitioner has suppressed the fact of his involvement. Hence, the petitioner's candidature was cancelled. Since there is a suppression of material information, the petitioner is not fit to the appointment. Hence, the respondents prayed to dismiss this Writ Petition.

4. Heard Mr.V.Pannerselvam, learned counsel for the petitioner and Mr.C.Nandagopal, learned Central Government Standing Counsel for the respondents and perused the records.

5. It is an admitted fact that the notification was issued in July 2014 and the petitioner has submitted application on 16.07.2014 and the first FIR was filed on 02.12.2014 and second FIR was filed on 26.03.2015. From this, it would be evident that at the time of filing the application, there is no FIR and hence there is no suppression of fact. Therefore, this Court is of the considered opinion that there is no suppression at the time of application.



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6. However, when the petitioner was subjected to Medical Examination on 23.04.2015, the petitioner was having the knowledge of two criminal cases against him. The petitioner had an opportunity to disclose the same at the time of Medical Examination. However, the petitioner had chosen not to disclose. Subsequently, when the character antecedent certificate was sought by the authorities, the petitioner has disclosed the same before the authorities. The authorities have directed the petitioner to close the criminal cases and report the same before the authorities. Taking the advice of the authorities, the petitioner has taken earnest effort to approach the Criminal Court as well the High Court to quash / close the criminal case. A relevant observation by this Court is saving the petitioner. This Court while granting interim order for the second FIR, had observed that the sister of the petitioner in order to spoil the petitioner's appointment as CSIF has instigated the criminal case. Since the petitioner's father, mother and one brother has died, the petitioner was in distress. The petitioner had felt he was responsible for the sister future and as a brother was taking steps to get her married. But the petitioner's sister has not taken the advice of the petitioner, which has resulted in tussle between the petitioner and his sister. Therefore, in such circumstances, the petitioner cannot be found fault.



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7. Moreover, the Government of India, Ministry of Home Affairs has issued the guidelines dated 01.02.2012, wherein it has been stated that minor offence is not a bar for appointment in the Government service. In the list of minor offences, under Serial No.2 it is stated that imposition of fine in criminal case is not a bar for consideration for appointment and the relevant portion is extracted hereunder:

***“Subject: Policy Guidelines for considering cases of candidates for appointment in CAPFs-pendency of criminal cases against candidates-the effect of:
2. Any offences as defined under the IPC or any other act of Central Government or State Government which is punishable only with fine without any imprisonment.”***

8. In the present case, the petitioner was imposed with a fine of Rs.1000/- and one day Court imprisonment. Since this is a minor punishment, this Court following the said guidelines is of the considered opinion that the petitioner has right to be considered for appointment.

9. The similar issue was considered by this Court in W.P.(MD).No.15176 of 2018 dated 15.03.2022 and has allowed the said Writ Petition following the said guidelines. Moreover, the dispute is between the petitioner and his sister.



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The petitioner has not committed any serious offences against the Society or the Nation. Moreover, it is at the instigation of the petitioner's sister in order to spoil the petitioner's employment in CSIF, the petitioner was forced to face the criminal charges. The petitioner relied on judgment passed in W.A.(MD)No.753 of 2015 dated 06.09.2017, wherein, this Court has held as follows:

“5. In the case on hand, the writ petitioner was admittedly involved in a trivial case. Furthermore, on a perusal of the records we find that he has not ticked the column as yes with respect to involvement of criminal case and the First Information Report. As rightly submitted by the learned counsel for the writ petitioner, it is not a case of willful suppression. It has come out of ignorance, otherwise he would have tick the column as yes, which raised question as to whether the applicant is convicted or not, apart from pendency of the criminal case. One more thing has to be seen that the complainant in the criminal case has become his wife. The conviction is only with respect to payment of Rs.500/-. Even on the date of filing of the charge sheet, the conviction was rendered on payment. The writ petitioner did not want to go through the Trial without knowing the implication that may arise in future. The affidavit filed by the writ petitioner would show that he is in penury having married the lady who given the complaint. After giving the complaint, not only the writ petitioner, even the complainant is suffering with two minor children”.

10. Therefore, following the Division Bench order, this Court is of the considered opinion that the petitioner cannot suffer for the trivial fight between the petitioner and his sister. The petitioner sister with evil intention spoiled the



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petitioner's opportunity to serve in CSIF. Therefore, this Court is inclined to quash the impugned order and the impugned order is quashed. The respondents are directed to issue appointment order and allow the petitioner to join the service within a period of two (2) weeks from the date of receipt of a copy of this order. The petitioner is entitled to all the benefits from the date of joining the service.

11. In view of the above, this Writ Petition is allowed. There shall be no order as to costs.

01.02.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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S.SRIMATHY, J.

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