



W.P(MD)No.12473 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.12473 of 2023

and

W.M.P.(MD)Nos.10548 & 10550 of 2023

M.Pushparaj

... Petitioner

Vs.

**1.Tamil Nadu Uniformed Services Recruitment Board,
Represented by its Member Secretary,
Old Commissioner of Police Office Campus,
Pantheon Road, Egmore,
Chennai-600 008.**

**2.The Superintendent of Police,
Thoothukudi District,
Thoothukudi.**

... 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 of the impugned order of the 2nd Respondent in Na.Ka.No.A5/47117/637/2023 dated 10.05.2023 and quash the same as illegal and consequently direct the Respondents to select and appoint the Petitioner for the post of Grade-II Police Constable in common recruitment for the post of Grade-II Police Constable, Grade II Jail Warder and Fireman 2022 within the time stipulated by this Court.



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For Petitioner : Mr.M.Kannan

For Respondents : Mr.Veerakathiravan
Additional Advocate General
assisted by Mr.K.Balasubramani
Special Government Pleader

ORDER

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

2. The petitioner is an aspirant for the post of Grade-II Police Constable. He took part in the recruitment process held in the year 2022. He was successful in the written examination as well as physical test. However, the second respondent has issued the impugned memorandum dated 10.05.2023 holding that the petitioner is a disqualified candidate. The said order is put to challenge in this writ petition.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ



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petition. He pointed out that even though the petitioner was prosecuted in a criminal case, he had fairly disclosed his implication while filling up the application form. He also would argue that he got acquittal honourably and that therefore, he should be treated as a person not involved in any criminal case. He relied on the order dated 01.02.2022 made in W.P.(MD)No.1950 of 2022(G.Venkatesh Vs. Tamil Nadu Uniformed Service Recruitment Board). He pressed for granting relief as sought for.

4. The learned Additional Advocate General contended that the impugned order has been rightly passed. He pointed out that on a careful reading of the Judgment of acquittal, one can come to the conclusion that it is grounded on benefit of doubt and that therefore, the order impugned in the writ petition does not warrant interference. He pressed for dismissal of the writ petition.

5. I carefully considered the rival contentions and went through the materials on record. It is true that the petitioner was implicated as an accused in Crime No.29 of 2018 registered on the file of the Ammapatti



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Police Station. One Jothi Murugan was the defacto complainant. The case was investigated. Final report was filed. Cognizance was taken in C.C.No.173 of 2018 on the file of the Judicial Magistrate Court No.II, Sattur. The defacto complainant as well as P.W.2 stuck to their original testimony. However, vide order dated 23.11.2020, the petitioner was acquitted. The learned counsel for the petitioner would argue that since the complainant had not turned hostile, disqualification rule will not be attracted. Rule 14(b) of Tamil Nadu Special Police Subordinate Service Rules is as follows:-

Rule 14(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 one of 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.

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

Explanation (1): A person who is acquitted or discharged on benefits of doubt or due to the fact that the complainant turned hostile shall be treated as person involved in a criminal case.

Explanation (2): A person involved in a criminal case at the time of police verification and the case yet to be disposed of and subsequently,



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ended in honourable acquittal or treated as mistake of fact shall be treated as not involved in a criminal case and he can claim right for appointment only by participating in the next recruitment.

6. Explanation is in two parts. A person who has been acquitted or discharged on the benefit of doubt shall be treated as a person involved in the criminal case. A person who has been acquitted or discharged due to the fact that the complainant turned hostile shall be treated as a person involved in the criminal case. It is true that in this case, the complainant did not turn hostile.

7. The learned Additional Advocate General would point out that P.W.4 Jacob Selvam turned hostile and it was this that led the trial magistrate to acquit the petitioner on the ground of benefit of doubt. I note that no independent witness was examined. Therefore, I am not in a position to agree with the contention of the learned counsel appearing for the petitioner that it was an honourable acquittal. He was acquitted on the ground of benefit of doubt. Therefore, disqualification rule is attracted. The impugned order is very much in consonance with the aforesaid rule. No case of interference has been made out.



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8. The Writ Petition is dismissed. No costs. Consequently,

connected miscellaneous petitions are closed.

22.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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To

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