



W.P(MD)No.13741 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13741 of 2023

and

W.M.P(MD)Nos.11552 & 11553 of 2023

Alex Kumar

... Petitioner

Vs

1.Tamil Nadu Uniformed Services Recruitment Board,
Represented by its Chairman / Member Secretary,
Recruitment Sub-Committee,
Tenkasi Centre,
Old Commissioner of Police Office Campus,
Pantheon Road,
Egmore,
Chennai – 600 008.

2.The Director General of Police,
Mylapore,
Chennai – 600 004.

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

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the third respondent vide office proceedings in Na.Ka.No.A4/9695/2023 dated 16.05.2023 and and quash the same as illegal and consequently direct the respondents to issue an appointment order to the petitioner and send him for training for the post of Grade - II Police Constables (Armed Reserve, Tamil Nadu Special Force), Jail Warder and Firemen) with effect from the date of original selection within the time period stipulated by this Court.

For Petitioner : Mr.KHenri Tiphagne
For Respondents : Mr.Veera.Kathiravan
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.



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2. The petitioner is an aspirant for the post of Police Constable Grade II. He took part in the recruitment process held by the recruitment Board for the year 2022. The petitioner was successful in the written test as well as in the physical tests. However, the impugned memorandum was issued holding that the petitioner is a disqualified candidate. Challenging the same, the present writ petition came to be filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned memorandum and grant relief as prayed for.

4. Though the occurrence had taken place when the petitioner was a college student and the offences are rather minor in nature. I am not in a position to grant relief.

5. As rightly pointed out by the learned Additional Advocate General, the criminal case registered against the petitioner was quashed on account of the compromise entered into with the defacto complainant.



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The petitioner was implicated in Crime No.2 of 2019 registered on the file of Tenkasi Police Station. Final report was filed and taken on file by the learned Judicial Magistrate, Tenkasi in C.C.No.309 of 2019. The petitioner figured as second accused. The petitioner filed CrI.O.P(MD)No.19406 of 2019 to quash the same. The defacto complainant was shown as R.2. The Original Petition was allowed on 09.01.2020 in the following terms:

“2.The case is under trial. By passage of time, the parties have decided to bury their hatchet and compromise the dispute amicably among themselves.

3.A Joint Memo of Compromise has been filed before this Court, which have been signed by the petitioner and the second respondent and also by their respective counsel. The petitioner and the second respondent were also present in person before this Court and they were identified by Mr.I. John, Sub- Inspector Police. This Court also enquired both the parties and was satisfied that the parties have come to an amicable settlement between themselves.



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4. *Under such circumstances, no useful purpose will be served in keeping the proceedings in C.C.No. 309 of 2019 pending, even though, the offences involved are not compoundable in nature. In the light of the guidelines given by the Hon'ble Supreme Court reported in 2017 9 SCC 641-(Parbathbhai Aahir @ Parbathbhai Vs. State of Gujrath), this Court in exercise of its jurisdiction under Section 482 Cr.P.C. quashes the proceedings in C.C.No.309 of 2019.*

5.

6. *Accordingly, this Criminal Original Petition stands allowed and as a sequel, the proceedings in C.C.No. 309 of 2019, on the file of the learned Judicial Magistrate, Tenkasi, is quashed and the terms of joint compromise memo shall form part and parcel of this order."*

6. The learned Additional Advocate General is right in his contention that the state cannot make a distinction between cases where it ended in acquittal on account of the witnesses turning hostile and cases which have been quashed on the strength of compromise.



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7. 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 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, 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.”



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Even when the case is quashed on the strength of compromise, Explanation (1) will be attracted. The impugned memorandum cannot be faulted. I decline to interfere.

8. This writ petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

13.06.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

To

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