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W.P.(MD)NO.13844 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 14.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.13844 of 2023 and
W.M.P.(MD)Nos.11686 & 11687 of 2023

B.Saravanan

... Petitioner

Vs.

1. The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
No.807, P.T.Lee Chengalvaraya Naicker Maligai,
Anna Salai, Chennai – 600 002.
2. The Director General of Police,
O/o.Director General of Police Head Office,
Chennai – 4.
3. The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.
4. The Inspector of Police,
Paramakudi Taluk police station,
Ramanathapuram District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned order of the 3rd respondent made in Na.Ka.No.Pa.Pi.2(1)/21900/2022 dated 02.05.2023 and quash the same



as unsustainable and consequently, to direct the respondents 1 to 3 to grant appointment to the petitioner (enroll No.4405140) to the post of Grade II Police Constable, in the common recruitment for the posts of Grade II Police Constable, for the year 2022 within the time limit that may be stipulated by this Court.

For Petitioner : Mr.S.Jeyakarthik

For Respondents : Mr.Veera Kathiravan,
Additional Advocate General,
assisted by
Mr.K.Balasubramani,
Special Government Pleader.

* * *

ORDER

Heard the learned counsel appearing for the writ 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 Police constable Grade II. The petitioner had earlier served in the Indian army. When the respondent Board issued recruitment notification, the petitioner applied in response thereto. The petitioner failed to disclose his implication in Crime No.66 of 2015 registered on the file of Paramakudi Taluk police



station, in the application form. He disclosed the factum of his implication at subsequent stages. He was successful in written test as well as physical test. However by the impugned memorandum, he had been disqualified. Challenging the same, this writ petition came to be filed.

3. The learned counsel appearing for the writ 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. I am not persuaded by the said submissions. As rightly pointed out by the learned Additional Advocate General, the impugned order rests on two grounds:

a) Suppression of material fact of the petitioner's involvement in the criminal case while filling up the application form.

b) The petitioner's acquittal in the criminal case was on account of the witnesses turning hostile.



5. Rule 14(b) of Tamil Nadu Special Police Subordinate Service

Rules, 1978 reads as follows:-

“Rule 14(b): No person shall be eligible for appointment to the service by direct recruitment unless he satisfies the appointing authority

(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.”*

6. The decision of the Hon'ble Apex Court reported in **2022 SCC**

Online SC 1300 (Satish Chandra Yadav Vs. Union of India) is as follows:-



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“90.C) The suppression of material information and making a false statement in the verification Form relating to arrest, prosecution, conviction etc., has a clear bearing on the character, conduct and antecedents of the employee. If it is found that the employee had suppressed or given false information in regard to the matters having a bearing on his fitness or suitability to the post, he can be terminated from service.”

7. The aforesaid service rule was challenged and upheld by the Hon'ble Full Bench as well as the Hon'ble Larger Bench. In these circumstances, it is not possible for this Court to interfere with the impugned memorandum. The fact remains that the petitioner was figuring as an accused in Crime No.66 of 2015 for the offences under Sections 294(b), 324 and 506(ii) of I.P.C. The final report was filed and cognizance was taken in C.C.No.257 of 2019 on the file of the Judicial Magistrate, Paramakudi. The case ended in acquittal on 26.08.2022. The application form was submitted by the petitioner through online mode. In the said application form, there is no reference to the criminal case. This definitely would operate as suppression of material facts. Of course at the police verification stage, the petitioner disclosed his implication.



But that would not come to his aid. Since there has been suppression on the part of the petitioner while filling up the application form, he has to be necessarily disqualified. This is particularly in view of the aforesaid decision of the Hon'ble Apex Court.

8. Even if I overlook the said act of suppression on the petitioner's part, since the petitioner has been acquitted in C.C.No.257 of 2019 only through benefit of doubt and the witnesses turning hostile, the aforesaid service rule would come into play. Looked at from any angle, it is not possible for this Court to grant relief. This writ petition stands dismissed. I however make it clear that the dismissal of this writ petition will not come in the way of the respondents from showing indulgence to the petitioner considering his army background. No costs. Consequently, connected miscellaneous petitions are closed.

14.06.2023

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

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