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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 30.06.2023

Pronounced on : 19.09.2023

CORAM

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

**WP(MD)No.14812 of 2023
and
WMP(MD)No.12507 of 2023**

S.Mxxx

.... Petitioner

Vs.

1.The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Pantheon Road, Egmore,
Chennai – 600 008.

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

... Respondents

Prayer : Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned communication made in Na.Ka.No.A4/9695/2023 dated 16.05.2023 by the 2nd respondent and quash the same as illegal and consequently directing the respondents herein to appoint the petitioner as Grade-II Police Constable as per the certificate verification conducted by the 1st respondent on 07.02.2023 within a time frame that may be stipulated by this Court.



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For Petitioner : Mr.D.Srinivasaragavan

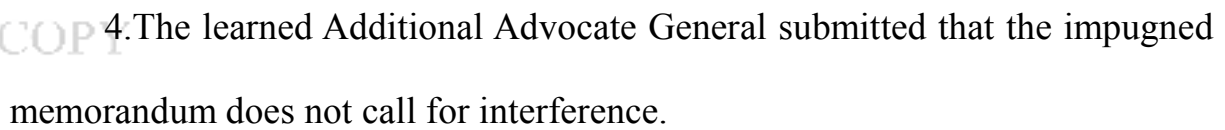
For Respondents : Mr.Veerakathiravan,
Addl. Advocate General
Assisted by Mr.G.Suriyananth,
Addl. Government Pleader.

ORDER

Heard both sides.

2.The petitioner was born on 27.03.2002. She applied for the post of Grade - II Police Constable for the year 2022. The petitioner cleared the written test as well as physical endurance test. Her certificates were also verified on 07.02.2023. However, the petitioner was shown as disqualified candidate in the impugned memorandum dated 16.05.2023. According to the respondents, the petitioner had suppressed her involvement in a criminal case. Challenging the same, this present writ petition came to be filed.

3.The learned counsel 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 communication and grant relief as prayed for.



5.I carefully considered the rival contentions and went through the materials on record. The petitioner figured as A3 in Crime No.70 of 2014 registered on the file of Sambavar Vadakarai Police Station for the offences under Sections 341, 294(b), 323 and 506(i) of IPC. The case was registered on 30.03.2014. But when the final report was filed on 20.05.2014, the petitioner's name was deleted. The stand of the respondents is that the implication of the petitioner as an accused should have been disclosed. The stand of the respondents is clearly incorrect. The petitioner had just completed her 12 years when she was implicated as an accused. Even if the petitioner had committed any offence and dealt with under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015, that would still not operate as disqualification. Section 24 of the Juvenile Justice (Care and Protection of Children) Act, 2015 reads as under:-

“24. Removal of disqualification on the finding of an offence: (1

Notwithstanding anything contained in any other law for the time being in force, a child who has committed an offence and has been dealt with



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under the provisions of this Act shall not suffer disqualification, if any, attached to a conviction of an offence under such law:

Provided that in case of a child who has completed or is above the age of sixteen years and is found to be in conflict with law by the Children's Court under clause (i) of sub-section (1) of section 19, the provisions of sub-section (1) shall not apply.

(2) The Board shall make an order directing the Police, or by the Children's court to its own registry that the relevant records of such conviction shall be destroyed after the expiry of the period of appeal or, as the case may be, a reasonable period as may be prescribed:

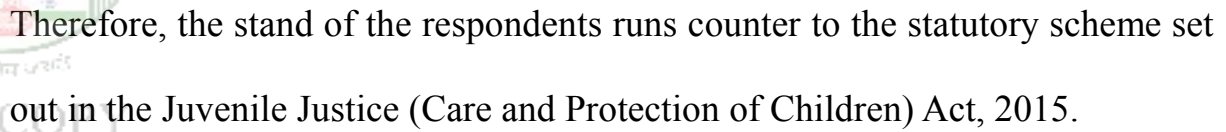
Provided that in case of a heinous offence where the child is found to be in conflict with law under clause (i) of sub-section (1) of section 19, the relevant records of conviction of such child shall be retained by the Children's Court.”

The corresponding provision in the earlier Act read as follows:-

“19. Removal of disqualification attaching to conviction

(1) Notwithstanding anything contained in any other law, a juvenile who has committed an offence and has been dealt with under the provisions of this Act shall not suffer disqualification, if any, attaching to a conviction of an offence under such law,

(2) The Board shall make an order directing that the relevant records of such conviction shall be removed after the expiry of the period of appeal or a reasonable period as prescribed under the rules, as the case may be.”



19.09.2023

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



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G.R.SWAMINATHAN, J.

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**Pre-Delivery Order in
WP(MD)No.14812 of 2023**

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