



W.A.(MD)No.53 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 09.02.2023

DELIVERED ON: 21.06.2023

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HON'BLE TMT.JUSTICE L.VICTORIA GOWRI

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M.Sathish Kumar

.. Appellant

Vs.

1.The Director General of Police,
Tamilnadu State,
Dr.Radhakrishnan Salai,
Mylapore, Chennai.

2.Tamilnadu Uniformed Service Recruitment Board,
Represented by its Chairman,
Pantheon Road, Egmore,
Chennai-600 008.

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

.. Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 22.03.2022 made in W.P.(MD) No.817 of 2020 dated 22.03.2022.



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For Appellant : Mr.V.Muniasamy
For Respondents : Mr.Veerakathiravan
Additional Advocate General

JUDGMENT

D.KRISHNAKUMAR, J.

This writ appeal is filed against the order of the Writ Court dated 22.03.2022 made in W.P.(MD)No.817 of 2020, in and by which, challenge made by the appellant/writ petitioner against the order of rejection dated 24.10.2019 passed by the third respondent, rejecting the candidature of the appellant/writ petitioner for selection to the post of Police Constable Grade-II, came to be rejected.

2. The candidature of the petitioner for selection to the post of Police Constable Grade II was rejected on the ground that during certificate verification, the Selection Committee found that the appellant/writ petitioner has suppressed the fact regarding registration of criminal case against him in the application submitted pursuant to the notification. Challenging the same, he has filed the writ petition.



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3. The Writ Court, taking into consideration the rival submission and relying upon the Full Bench decision of the Madhya Pradesh High Court in ***Ashuthosh Pawar v. High Court of Madhya Pradesh [2018 (1) CTC 335]***, decisions of the Hon'ble Supreme Court in ***Avtar Singh v. Union of India and Others [2016 (8) SCC 471]*** and ***Commissioner of Police v. Raj Kumar in C.A.No.4960 of 2021 dated 25.08.2021***, ultimately dismissed the writ petition observing as under:

“6. The learned counsel for the petitioner, his all fairness, submitted the fact that the petitioner has suppressed the fact regarding the registration of criminal both in the application as well as during verification. However, he made an attempt to distinguish the suppression by stating that it is not a material suppression, but the offences are trivial in nature and therefore, the case of the writ petitioner is to be considered.

7. Beyond the registration of the criminal case, suppression itself is sufficient to reject the application. Even in cases, where there is no suppression, then also the competent Selection Committee is empowered to make independent assessment regarding the merits, antecedents, eligibility and suitability. The scope of judicial review is limited in this aspect. The decision of the Selection Committee becomes final in all respects. Writ against the decision of the Selection Committee needs to be entertained only if such decision is vitiated with malafides or on allegation of fraud or corruptive activities are established beyond any pale of doubt.

8. Therefore, this Court is of the considered opinion that regarding suppression no distinction need to be adopted.



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When a suppression is apparent with reference to the registration of a criminal case that is sufficient enough to hold that the writ petitioner is not entitled for the relief. Suppression cannot be quantified by stating that the offences are trivial in nature. Only in respect of heinous offences, the material facts are to be disclosed in the application. The application states that whether such circumstances, if the application says, 'No', then, it amounts to suppression of facts, if the criminal case registered against him. This being the principles to be adopted, the case of the writ petitioner was rejected on the ground of suppression of material facts regarding the registration of criminal cases both in the application as well at the time of verification. Thus, this Court do not find any infirmity or illegality in the order of rejection passed by the 3rd respondent."

4. Mr.V.Muniasamy, learned counsel for the appellant/writ petitioner submitted that suppression must be related to material facts and the registration of criminal case for trivial offences cannot be a ground to reject the case on suppression of material facts. The learned counsel for the appellant further contended that the appellant /writ petitioner was subsequently acquitted honourably in the criminal case and however, the said fact has been not considered by the authorities as well by the Writ Court and therefore, prays for interference. The learned counsel for the appellant, in support of his contention, has placed reliance upon the decision in ***Commissioner of Police, New Delhi and***



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another v. Mehar Singh [(2013) 8 SCC 685].

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5. *Per contra*, Mr.Veera Kathiravan, learned Additional Government Pleader appearing for the respondents would contend that the appellant/writ petitioner has suppressed his involvement in the criminal case both at the time of submitting the application as well as during certificate verification and in the criminal case, the appellant has been acquitted on the ground of benefit of doubt and not honourably as stated by the appellant and therefore, prays for dismissal of this writ appeal.

6. Heard the submissions of both sides and also perused the materials on record.

7. At the outset, it is required to be noted that the post on which the writ petitioner is seeking the appointment is the post of Police Constable Grade II. It cannot be disputed that the duty of the constable is to maintain law and order. Therefore, it is expected that he should be honest, trustworthy and that his integrity is above board and that he is



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reliable. An employee in the uniformed service presupposes a higher level of integrity, as such a person is expected to uphold the law and on the contrary any act in deceit and subterfuge cannot be tolerated. In the present case, the writ petitioner has not confirmed to the above expectations/requirements. He suppressed the material facts of his criminal antecedents. He did not disclose in the application form that against him a criminal case/FIR is pending. On the contrary, in the application form, he made a false statement that he is not facing any criminal case. Therefore, due to the aforesaid suppression, his candidature came to be rejected by the appointing authority during Certificate Verification. Though it is the contention of the appellant/writ petitioner that the offences are trivial in nature, subsequently, the criminal case has ended in acquittal and the learned Single Judge had dismissed the writ petition on the ground that beyond the registration of the criminal case, suppression itself is sufficient to reject the application.

8. The question is not whether the offences were trivial in nature or not. The question is one of suppression of material fact by the appellant/writ petitioner in respect of his criminal antecedents and



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making a false statement in the application form. If in the beginning itself, he has suppressed the material fact in respect to his criminal antecedents and in fact made an incorrect statement, how can he be appointed as a constable. How can he be trusted thereafter in future? How it is expected that thereafter he will perform his duty honestly and with integrity? Therefore, as such the authorities were justified in rejecting the candidature of the respondent for the post of Police Constable Grade II.

9. This Court in a similar circumstances, in a batch of cases filed before the Madurai Bench of Madras High Court in *W.A.(MD) No.938 of 2029 etc., batch dated 05.06.2023*, in which one of us is a party [*D.Krishnakumar, J.*], has elaborately discussed on various factors to be considered in respect of police recruitment and observed as follows:

“12.Suppression of involvement in a criminal case:

The suppression of involvement in a criminal case will clearly dis-entitle a candidate for the post for which he has applied. The Hon'ble Supreme Court in a Judgement reported *in (2013) 7 SCC 685 (Commissioner of Police, New Delhi and another Vs. Mehar Singh)* in Paragraph No.34 has held



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as follows:

“34.The respondents are trying to draw mileage from the fact that in their application and/or attestation form they have disclosed their involvement in a criminal case. We do not see how this fact improves their case. Disclosure of these facts in the application/attestation form is an essential requirement. An aspirant is expected to state these facts honestly. Honesty and integrity are inbuilt requirements of the police force. The respondents should not, therefore, expect to score any brownie points because of this disclosure. Besides, this has no relevance to the point in issue. It bears repetition to state that while deciding whether a person against whom a criminal case was registered and who was later acquitted or discharged should be appointed to a post in the police force, what is relevant is the nature of the offence, the extent of his involvement, whether the acquittal was a clean acquittal or an acquittal by giving benefit of doubt because the witnesses turned hostile or because of some serious flaw in the prosecution, and the propensity of such person to indulge in similar activities in future. This decision, in our opinion, can only be taken by the Screening Committee created for that purpose by the Delhi Police. If the Screening Committee’s decision is not mala fide or actuated by extraneous considerations, then, it cannot be questioned.

13.The Hon'ble Supreme Court in a judgement reported in **(2016) 8 SCC 171(Avtar Singh Vs. Union of India and others)** in Paragraph No.38.4 has held as follows:

“38.4 In case there is suppression or false information of involvement in a criminal case where conviction or acquittal had already been recorded before filing of the application/verification form and such fact later comes to knowledge of employer, any of the following recourses appropriate to the case may be adopted.”

14.The Hon'ble Supreme Court in a judgement reported in **(2012) 8 SCC Page 748 (Jainendra Singh Vs.**



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State of Uttar Pradesh through Principal Secretary, Home and others), Paragraph No.29.5, 29.6 and 29.7 has held as follows:

“29.5. The purpose of calling for information regarding involvement in any criminal case or detention or conviction is for the purpose of verification of the character /antecedents at the time of recruitment and suppression of such material information will have a clear bearing on the character and antecedents of the candidate in relation to his continuity in service.

29.6. The person who suppressed the material information and / or gives a false information cannot claim any right for appointment or continuity in service.

29.7. The standard expected of a person intended to serve in uniformed service is quite distinct from other services and, therefore, any deliberate statement or omission regarding a vital information can be seriously viewed and the ultimate decision of the appointing authority cannot be faulted.”

15.The Hon'ble Supreme Court in a judgment reported **in (2021) 10 SCC Page 136 (Rajasthan Rajya Vidyut Prasaran Nigam Limited and Another Vs. Anil Kanwariya)** in Paragraph No.14 has held as follows:

“14. The issue/question may be considered from another angle, from the employer's point of view. The question is not about whether an employee was involved in a dispute of trivial nature and whether he has been subsequently acquitted or not. The question is about the credibility and/or trustworthiness of such an employee who at the initial stage of the employment, i.e., while submitting the declaration/verification and/or applying for a post made false declaration and/or not disclosing and/or suppressing material fact of having involved in a criminal case. If the correct facts would have been disclosed, the employer might not have appointed him. Then the question is of TRUST. Therefore, in such a situation, where the employer feels that an employee who at the initial stage itself has made a false



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statement and/or not disclosed the material facts and/or suppressed the material facts and therefore he cannot be continued in service because such an employee cannot be relied upon even in future, the employer cannot be forced to continue such an employee. The choice/option whether to continue or not to continue such an employee always must be given to the employer. At the cost of repetition, it is observed and as observed hereinabove in catena of decision such an employee cannot claim the appointment and/or continue to be in service as a matter of right.”

16.The Hon'ble Supreme Court in a judgment reported **in 2022 SCC Online SC 1300 (Satish Chandra Yadav Vs. Union of India and others)** in Paragraph No.90(c)(d) have held as follows:

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.

(d)The generalisations about the youth, career prospects and age of the candidates leading to condonation of the offenders' conduct, should not enter the judicial verdict and should be avoided”.

17.In view of the Judgments of the Hon'ble Supreme Court, it is clear that where a candidate had knowledge about his involvement in the criminal case, but he had suppressed the same either at the time of application or at the time of police verification, he is not entitled to get an appointment. However, the Hon'ble Supreme Court in a judgment reported in **(2016) 8 SCC Page 471 (Avtar Singh Vs. Union of India and others)** in Paragraph No.38.4.1 has held that if the criminal case in which the candidate is involved is of trivial



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in nature, the employer may, in his discretion, can ignore such suppression of fact or false information by condoning the lapse. In Paragraph 38.8, the Hon'ble Supreme Court has held that if the pendency of the criminal case was not informed to the candidate at the time of filing the form, still it may have adverse impact and the appointing authority would have to take decision after considering the seriousness of the crime. In Paragraph 38.11, the Hon'ble Supreme Court has held that before a person is held guilty of suppressio veri or suggestio falsi, knowledge of the fact must be attributable to him.

18. Therefore, from the judgements of the Hon'ble Supreme Court, it is clear that once the candidate is having knowledge about his involvement in a criminal case (not being of trivial in nature) had suppressed the same at the time of filing of an application, he is not entitled to seek any appointment. But in cases where the information was not furnished in the application form relating to an offence (not being trivial in nature), the employer in his discretion is entitled to consider his candidature by considering his character and past antecedents.

(D). SUMMARY OF PREPOSITION OF LAW:

19. In the light of the above said deliberations, the preposition of law could be summarized as follows:

(a). In case of honourable acquittal, discharge, case closed as mistake of fact, quashing of F.I.R/Charge Sheet before the date of police verification, the same should be considered in favour of the candidate in the current selection itself.

(b). Where the candidate has been acquitted on the ground of benefit of doubt or hostility of witnesses (before the date of police verification), that would not confer any right upon the candidate to claim appointment as a matter of right. It is for the employer to consider the suitability of the candidate based upon his conduct and antecedents only if the offences are trivial in nature.



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(c).Where the criminal case has been quashed (before police verification) on the basis of a compromise and the offence is of trivial in nature, the same can be considered in favour of the candidate in the current selection itself. However, if the offence involved is not of a trivial in nature, the same cannot be considered for appointment.

(d).Where a candidate having knowledge about his involvement in a criminal case had suppressed the same in his application and the said offence is not trivial in nature, he is not entitled to seek any appointment. ***On the other hand, in cases of trivial offences, without knowledge about his involvement or after having knowledge had suppressed his involvement, the employer in his discretion is entitled to consider the candidature by considering his character and past antecedents.*** (emphasis supplied)

(e).Where the candidate is involved in petty/trivial cases like family dispute or dispute with neighbors or shouting of slogans or traffic offence where fine was imposed, the same can be considered to be offence of trivial/petty in nature. However, the offence against women, children or under NDPS Act should never be considered to be an offence of trivial in nature.

(f).Where the candidate is involved in criminal offences under Juvenile Justice Act, he/she is to be considered in the light of the Division Bench Judgment of this Court dated 01.03.2023 in Rev.Apln.No.17 of 2023 in W.A.No.2759 of 2018 (The Superintendent of Police, Villupuram District Vs.S.Rajeshkumar)

(g). Pending the recruitment process, if a candidate is discharged from the criminal case or acquitted in the criminal case, he/she shall be eligible to be considered for the next recruitment process as per Rule 14(b) of the Tamil Nadu State Police Subordinate Service Rules.”

10. The case on hand is squarely covered by the proposition laid



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down in Para 19(D) of the Division Bench of this Court cited supra. It is clear from the records that the petitioner was involved in a criminal case involving offences of trivial in nature and he had completely suppressed the said fact at the time of submitting the application. The said involvement was found out during the certificate verification. The criminal case registered against the writ petitioner has also ended in honourable acquittal. Therefore, we are of the view that it is for the employer to consider the suitability of the candidate based upon his conduct and antecedents only, if the offences are trivial in nature. The Writ Petition has not considered these aspects in proper perspective. This Court finds much force in the contention made by the learned counsel for the appellant and the impugned order of the Writ Court as well as the authorities warrants interference and consequently, they are liable to be set aside.

11. In the light of the aforesaid discussion, this Writ Appeal stands partly allowed setting aside the order of the Writ Court dated 22.03.2022 as well as the order of the 3rd respondent dated 24.10.2019 in C.No.A3/29575/2017 and the matter is remitted to the appointing



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authority to reconsider the candidature of the appellant /writ petitioner afresh in the light of the law laid down in Paragraph No.19(D) of the judgment of the Division Bench of this Court cited supra and appropriate orders shall be passed within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

[D.K.K., J.,] [L.V.G., J.]
21.06.2023

Index:yes/no
Internet:yes
Jvm

To

- 1.The Director General of Police,
Tamilnadu State,
Dr.Radhakrishnan Salai,
Mylapore, Chennai.
- 2.Tamilnadu Uniformed Service Recruitment Board,
Represented by its Chairman,
Pantheon Road, Egmore,
Chennai-600 008.
- 3.The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.



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D.KRISHNAKUMAR, J.,
&
L.VICTORIA GOWRI, J.

Jvm

Judgment in
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