



W.P.(MD).No.16926 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 17.07.2023

PRONOUNCED ON : 27.07.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.16926 of 2023

and

W.M.P(MD)Nos.14155 & 14156 of 2023

R.Karthi

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by its Principal Secretary,
Home Department,
Secretariat,
Chennai – 600 009.
- 2.The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore,
Chennai – 8.
- 3.The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore,
Chennai – 8.
- 4.The Director General of Police,
O/o.The Director General of Police,
Tamil Nadu, Chennai – 600 004.

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5. The Superintendent of Police,
Thanjavur District,
Thanjavur.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the fifth respondent in his proceedings in Na.Ka.No.B3/800/2022, dated 06.07.2023 and quash the same as illegal and direct the respondents to consider the petitioner for appointment to the post of Grade-II Police Constable in pursuant to the Notification No.02/2022, dated 30.06.2022 within the time frame stipulated by this Court.

For Petitioner	: Mr.H.Mohammed Imran
For Respondents	: Mr.Veera.Kathiravan Additional Advocate General Assisted by Mr.N.Muthu Vijayan Special Government Pleader

ORDER

The present Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order passed by the fifth respondent, dated 06.07.2023 and consequently to direct the respondents to consider the petitioner for appointment to the post of Grade-II Police Constable pursuant to the Notification No.02/2022, dated 30.06.2022 within the time frame stipulated by this Court.



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2.The third respondent issued a notification inviting applications from eligible candidates for appointment to the post of Grade-II Police Constable (Armed Reserve, Tamil Nadu Special Force). The selection process consists of a written examination, physical test and interview. As per the said notification, the petitioner made an application and pursuant to the same, wrote the written examination, which was held on 13.12.2020. On being qualified in the written examination, he was called for a physical test on 26.07.2021. Upon successful completion of the physical test, after certificate verification, he was declared to have been selected and his name was placed in the list of provisionally selected list candidates. At the time of submitting his application, there was a criminal case pending against him for the offences under Sections 147, 148, 341, 353, 294(b), 506(2) of I.P.C and 3(1) of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992, implicating the petitioner as 19th accused and the said fact was also disclosed by the petitioner in the application. Even during certificate verification, the petitioner disclosed the details of the criminal case registered against him to the authorities. However, on 16.03.2022, the fifth respondent rejected the petitioner's claim citing the pendency of the criminal case. In the meanwhile, the criminal case ended in acquittal vide Judgment in C.C.No.327 of 2022, dated



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14.02.2023 on the file of the learned Judicial Magistrate No.II, Thanjavur. On the basis of the said acquittal, the petitioner submitted a representation to the respondents to consider his claim for appointment, however, the same was not considered. Hence, the petitioner filed a Writ Petition in W.P(MD)No.6371 of 2023 before this Court and this Court, vide order, dated 24.03.2023, disposed of the Writ Petition directing the respondents to consider the petitioner's representation. Pursuant to the same, the petitioner's claim was rejected by the fifth respondent on 06.07.2023 in respect of Notification No.1/2020, dated 17.09.2020. Challenging the same, the present Writ Petition came to be filed.

3.The learned counsel appearing for the petitioner vehemently contended that the impugned order, dated 06.07.2023 has been passed on the ground that the petitioner has suppressed the fact of pendency of a criminal case in Crime No.191 of 2018 on the file of the Vallam Police Station for the offences under Sections 147, 148, 341, 353, 294(b), 506(2) of I.P.C and 3(1) of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992, in his application as well as during certificate verification. However, the real fact is that the petitioner had promptly disclosed the entire details of the crime,



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which was registered as against him both in the application and also during certificate verification and the fact remains that the said crime later culminated in acquittal in C.C.No.327 of 2022, dated 14.02.2023 on the file of the learned Judicial Magistrate No.II, Thanjavur. Hence, the impugned order, dated 06.07.2023, passed by the fifth respondent is liable to be quashed and the Writ Petition should be allowed.

4.The learned Additional Advocate General appearing for the respondents fairly conceded that by oversight, the respondents had mistakenly observed that the petitioner had suppressed the material information about the registration of a criminal case in Crime No.191 of 2018 on the file of the Vallam Police Station as against him. Since the said fact is incorrect, the impugned order, dated 06.07.2023 passed by the fifth respondent may be quashed and the matter may be remanded back to the competent authority to consider the same on its own merits and facts.

5.Heard Mr.H.Mohammed Imran, learned counsel appearing for the petitioner and Mr.Veera.Kathiravan, learned Additional Advocate General appearing for the respondents and anxiously perused the materials available on record.



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6.This is a typical case where the petitioner's chances of being selected and appointed as a Grade-II Police Constable has been negated by the respondent authorities despite the petitioner's stellar performance in the written examination and also the physical endurance test. The respondents ought to have seen that the First Information Report came to be registered when the petitioner participated in a Kabadi Tournament conducted by the Village committee. As a result of which, a wordy quarrel arose between the Village Committee. Moreover, the petitioner had proved his merit and ability in the selection process and the same ought to have been considered by the fifth respondent, since the criminal case which was registered as against him had already ended in acquittal as early as on 14.02.2023.

7.Considering the fact that the right to be considered for public employment is a fundamental right as guaranteed under Article 226 of the Constitution of India, this Court is inclined to quash the impugned order, dated 06.07.2023 passed by the fifth respondent and remand the matter to the fifth respondent.



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8.In the light of the above, this Writ Petition is partly allowed setting aside the order passed by the fifth respondent, dated 06.07.2023 and the matter is remanded back to the fifth respondent. The petitioner is directed to make a fresh representation along with the acquittal order passed in C.C.No.327 of 2022, dated 14.02.2023 on the file of the learned Judicial Magistrate No.II, Thanjavur, to the respondents. On receipt of the same, the fifth respondent shall consider the petitioner's representation in the light of the fact that the petitioner had not suppressed the fact of registration of a criminal case as against him either in his application or during certificate verification and in view of Rule 14(b) of the Tamil Nadu Special Police Subordinate Services Rules, 1978, the petitioner's representation may be considered and appropriate orders shall be passed within a period of twelve weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

27.07.2023

NCC : Yes
Index : Yes
Internet : Yes
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WEB COPY

To

- 1.The Principal Secretary,
Represented by the State of Tamil Nadu,
Home Department,
Secretariat,
Chennai – 600 009.
- 2.The Chairman,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore,
Chennai – 8.
- 3.The Member Secretary,
Tamil Nadu Uniformed Services Recruitment Board,
Old Commissioner of Police Office Campus,
Egmore,
Chennai – 8.
- 4.The Director General of Police,
O/o.The Director General of Police,
Tamil Nadu, Chennai – 600 004.
- 5.The Superintendent of Police,
Thanjavur District,
Thanjavur.



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L.VICTORIA GOWRI, J.

ps

Pre-Delivery Order made in
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27.07.2023